

DEPARTMENT OF PUPIL SERVICES
WESTPORT PUBLIC SCHOOLS

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To: Dr. Landon
From: Michael Rizzo, Dr. Valerie Babich
Subject: Special Education Update 2008-2014
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Westport Public Schools' commitment to its students with disabilities, the services provided to these students, and the collaboration between parents and school staff has continued to flourish since 2008. The work of the school administrators, teachers, school counselors, school psychologists, speech and language pathologists, nurses, occupational therapists, physical therapists, paraprofessionals and parents has been guided by updates to Connecticut legislation and by guidelines issued by the State Department of Education. To meet these mandates and provide the level of services that our students deserve and our community expects, Westport has engaged in ongoing professional development, and has developed programs that meet the range of our individual student needs.

The following presentation provides a snapshot of our district's special education population and affords us an opportunity to highlight the enhancements and trends within our programs, as well as look at the next steps in our continued growth. Our district's work is responsive to new mandates but also retains its focus on the central elements of special education. That is, providing each student a free, appropriate public education in the least restrictive environment so the student can make meaningful progress in the student's educational program.

We look forward to sharing this information with you and will be available to address any questions that you might have.

Special Education Update 2008-2014

Enhancements, Trends, and Next Steps

District Information

October 1, 2013

579 students

Identification rate:

9.7%

Avg. TWNDP: 84%

Category		Category	Percentage
Learning disability	4.1	Other Disabilities*	.7
Intellectual disability	.1	* Orthopedic impairments, Developmental Delay, Multiple Disabilities, Traumatic Brain Injury, Visual Impairment	
Emotional Disability	.5		
Speech/Language Impaired	1.4		
Other Health Impaired/ADD/ADHD	1.9		
Autism	.9		

Legislative and SDE Updates

- Learning Disability Guidelines
- Emotional Disturbance Guidelines
- Section 504 Eligibility Criteria
- Evaluation of students
- Seclusion and Restraint guidelines

Program Enhancements

District programs

Extended School Year

Professional Development

Professional Development

Consultancies

Psychiatric, Assistive Technology, Neuropsychology

Student Programming

IEP development, Reading, Strategies and interventions

Teacher/Administrative Learning

504 considerations, Transition, Behavior Interventions, Applied Behavior Analysis

Program Enhancements (cont.)

Special Education PTA - Milestones

- 2009-2010** SpEd Survey Results Analyzed and Presented
PPT At A Glance Distributed
Community Fun Day Pilot
- 2010-2011** "We Are Here For You" letter drafted/distributed
SpEd Summer Programs Pilot
- 2011-2012** Navigating your IEP Presentation Pilot
- 2012-2013** Post High School Transition Presentation Pilot
Diversity Day Pilot @ one Elementary School
District-Wide SpEd Coffee Pilot
Challenger Baseball Launch
- 2013-2014** Increased Involvement bringing SpEd programming to Westport community (Unified Sports, WAC, YMCA)
Diversity Days Planned at All Eis as part of 4th grade regular education social skills curriculum

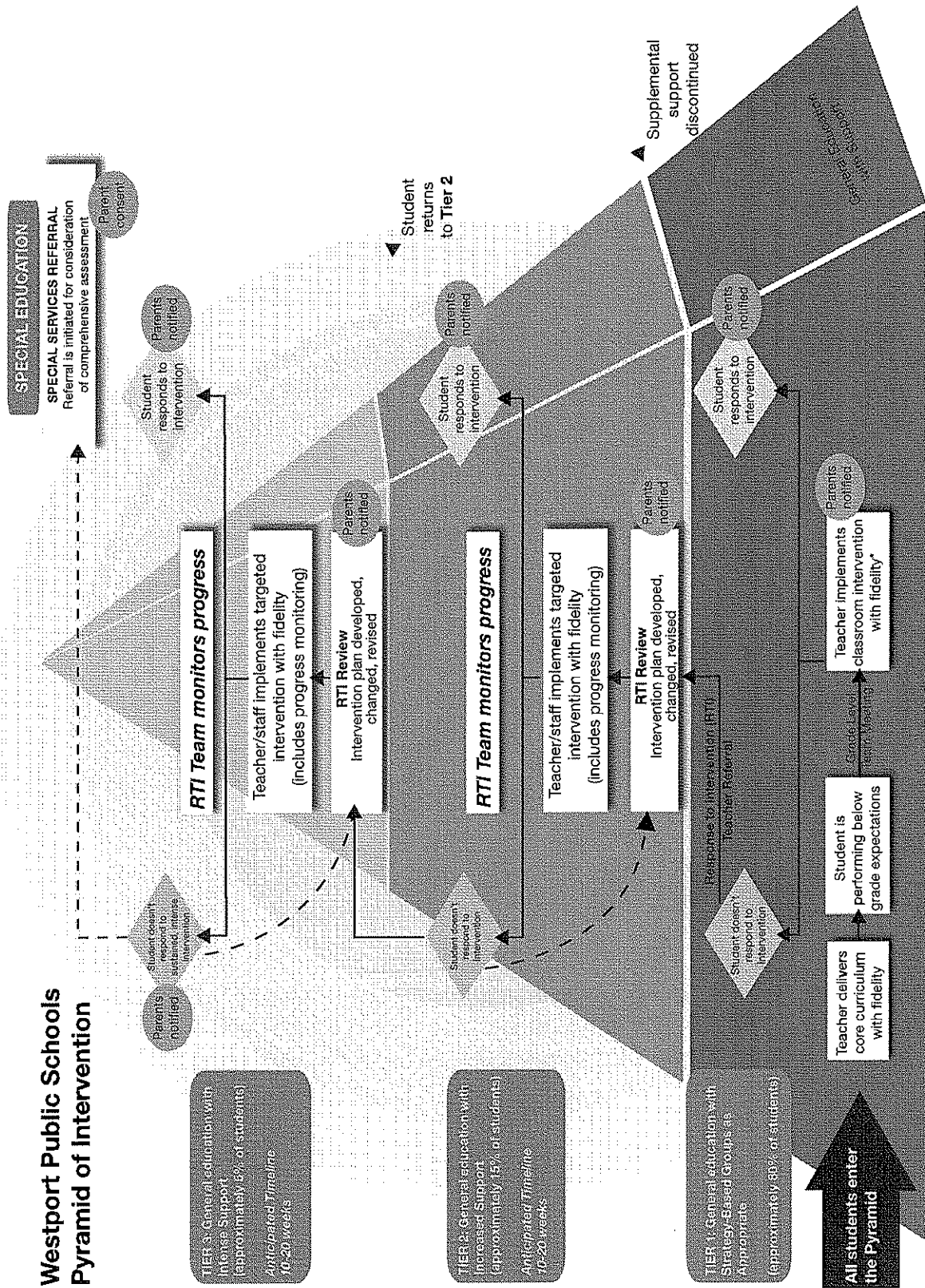
Next Steps: Continuous Improvement

Monitor: identification procedures, rates; student growth, and rates of inclusion

Gather parent feedback on PPT process;
Consider survey for 2015-16 school year

Continue to monitor and develop ESY program

Westport Public Schools Pyramid of Intervention



* Fidelity refers to the delivery of instruction as it was designed to be implemented

* Fidelity refers to the delivery of instruction as it was designed to be implemented

2010
GUIDELINES for IDENTIFYING
CHILDREN with
LEARNING DISABILITIES

September 2010

Connecticut State
Department of Education

2010

GUIDELINES for IDENTIFYING

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Foreword



**Mark K.
McQuillan**
Commissioner
of Education

State legislation and policies in Connecticut have consistently sought to improve the quality of education for all students, particularly those identified with disabilities. The Connecticut State Board of Education (SBE) and the Connecticut State Department of Education (CSDE) work collaboratively to ensure that public schools are implementing best practices that result in a positive education experience for all of Connecticut's students. In 2008, the CSDE deepened this commitment through the dissemination of a Connecticut framework for response to intervention, *Using Scientific Research-Based Interventions: Improving Education for All Students*.

The *Guidelines for Identifying Children with Learning Disabilities* (2010) and its alignment with the Scientific Research-Based Interventions (SRBI) framework emphasize the necessity of effective collaboration between general and special education. The Individuals with Disabilities Education Improvement Act (IDEA 2004) enabled states to adopt new eligibility criteria for students with a specific learning disability, to include identification procedures that are more accurate and consistent with current scientific evidence. This change in practice is intended to improve the appropriate identification of students with a specific learning disability by assessing students in ways that are more relevant to improving instruction and encouraging more efficient use of data.

This full guidelines document provides detailed discussions of the eligibility criteria outlined in the 2009 Executive Summary, as well as much greater elaboration of the rationale for the revised criteria, relevant research findings and key issues in the implementation of the guidelines. The document offers suggestions for increasing the capacity of general education and special education to meet the instructional needs of students with specific learning disabilities; details regarding developing a comprehensive evaluation; special situations, such as those involving very young children or students with intellectual giftedness; and issues in providing services for middle and high school students. Required forms, as well as a reference section and a glossary of important terms, may be found at the end of this document.

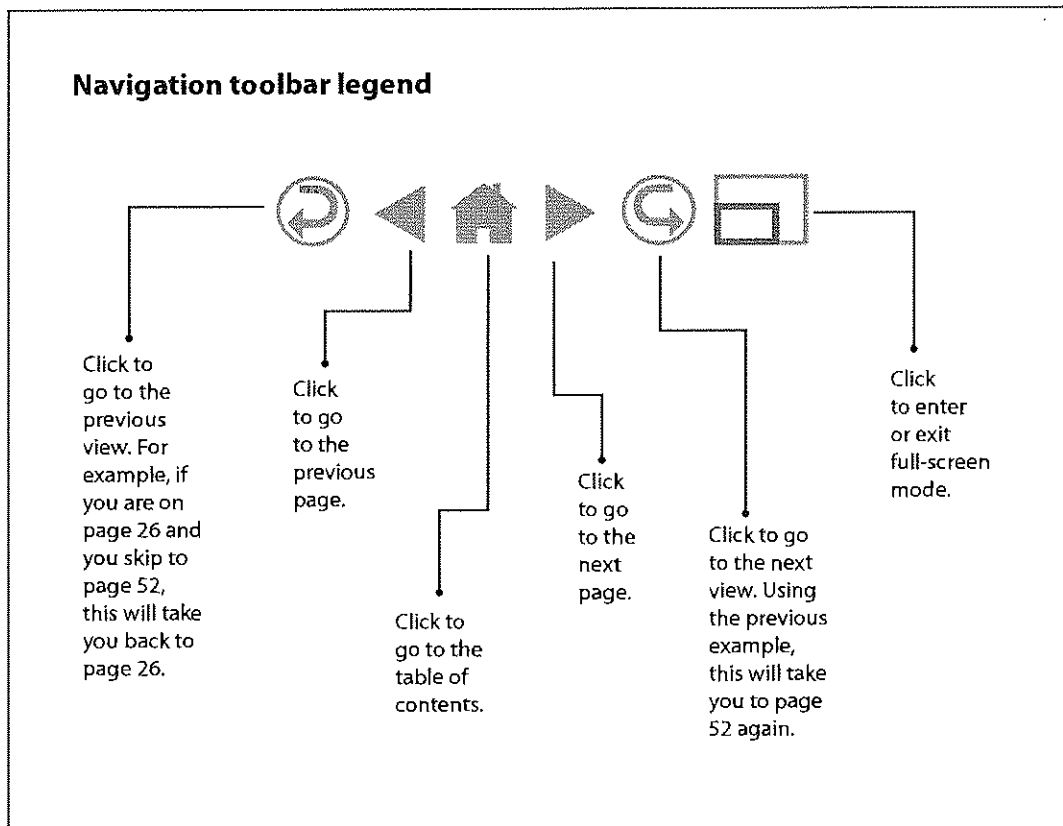
The Connecticut State Department of Education offers this 2010 revision of the *Guidelines for Identifying Children with Learning Disabilities* to assist school districts in identifying students with a specific learning disability under the provisions of IDEA 2004. In addition, these revised guidelines are intended to promote identification procedures that are nonbiased, nondiscriminatory, educationally useful and uniform across school districts. It is expected that districts' careful implementation of these guidelines will improve early intervention and identification practices while bolstering educational attainment for all students.

Mark K. McQuillan

Preface

The 2010 *Guidelines for Identifying Children with Learning Disabilities* provides a comprehensive description of the changes in IDEA 2004 regarding the identification and eligibility determination of children with a specific learning disability. Extensive information to assist general and special education personnel to increase their capacity to use scientific research-based instruction, interventions and assessment to meet the needs of all students is elaborated upon in the areas of reading, writing and mathematics. While the 2010 guidelines provide specific criteria for identifying a student with a specific learning disability as well as guidance about planning a comprehensive evaluation, this document is not intended to be prescriptive. It is recommended that planning and placement teams and other school personnel use these guidelines to develop processes and procedures that ensure: a student's learning difficulties are not due to a lack of appropriate instruction; extensive formal and informal data are collected to ensure that appropriate identification of students with a specific learning disability occur consistently across all grade levels; and a student's individualized education program is developed in a way that improves learning.

Appendices of required forms, references and a glossary of terms will guide the reader through this document. **Many parts of the document are interactive.** Hyperlinks to relevant resources and sections can be found in the right margins and periodically throughout the text. Use the toolbar in the top right corner of each page to navigate the document, and activate full-screen mode for optimal viewing (see legend below). Alternatively, the bookmarks panel of the Adobe Acrobat Reader window can be used to quickly navigate to any section of the document.



The *2010 Guidelines for Identifying Children with Learning Disabilities* is intended to provide guidance for school teams to make appropriate decisions of eligibility for Connecticut students. As additional resources and tools are developed regarding the identification and instruction of students with learning disabilities, they will be posted on the Bureau of Special Education's Web site.

We welcome your comments about the guidelines, specifically on the following topics:

- sections of the guidelines that may need further clarification;
- explanation of any special circumstances in the identification and eligibility process for students with learning disabilities that may not be included in the revised guidelines;
- impact of the new guidelines on eligibility procedures in your district;
- professional development that has been helpful to your district in making appropriate eligibility decisions; and
- professional development that may be necessary because of the changes in eligibility decisions.

Please send comments and suggestions to Dr. Patricia Anderson at patricia.anderson@ct.gov or Perri Murdica at perri.murdica@ct.gov. For technical questions about this document, please e-mail Matthew Falconer in the Office of Planning, Media and Constituent Services at matthew.falconer@ct.gov.

I | Introduction

Historical Background: Debates about Identification and Changes in Federal Legislation

The Education for All Handicapped Children Act of 1975, Public Law 94-142, was a groundbreaking federal law that required public school districts to locate, identify and evaluate students with disabilities and to provide a free appropriate public education in the least restrictive environment to students who were eligible for special education. Learning disabilities is a disability category under which students could be eligible for special education services. PL 94-142 conceptualized individuals with learning disabilities as having a discrepancy between their broad ability to learn and their actual achievement in core academic or linguistic areas. Many state educational guidelines, including the previous *Guidelines for Identifying Children with Learning Disabilities* (Connecticut State Department of Education, 1999), operationalized this concept as a discrepancy between a student's intelligence quotient (IQ) score, employed as the measure of broad learning ability, and her or his achievement when expressed as a standard score. To meet eligibility criteria for learning disabilities, a student's IQ score had to be significantly higher than her or his achievement standard score in the domain of difficulty, for example, in basic reading or math calculation. PL 94-142 also conceptualized learning disabilities as involving a disorder in a "basic psychological process," a concept operationalized as a requirement for a processing disorder in the 1999 state guidelines as well as in those of other states. In the decades since the passage of PL 94-142, the existence of learning disabilities has been widely accepted in both the scientific and educational communities. However, identification practices for learning disabilities have remained highly controversial.

Debates surrounding the IQ-achievement discrepancy requirement. Considerable debate exists regarding the reliability and validity in decision making when relying on an IQ-achievement discrepancy model for the identification of learning disabilities. Several evolutions of policy have attempted to correct for these kinds of issues. For example, the 1999 state guidelines focused more attention on the need for technically adequate tests, as well as on understanding the effects of standard error of measurement and regression to the mean when calculating IQ-achievement discrepancies. Furthermore, state eligibility criteria in the 1999 state guidelines required the use of regression tables in determining these discrepancies in order to correct for the effects of regression to the mean. Correction for regression was important in the context of a federal requirement for an ability-achievement discrepancy but unfortunately could not solve other core problems associated with the use of the discrepancy requirement.

Reliance on an IQ-achievement discrepancy as a diagnostic component makes identification of learning disabilities particularly problematic in the early grades because it often takes time for students to accumulate a sufficiently large discrepancy to be eligible for services. Hence, discrepancy criteria have often resulted in and been criticized as a "wait to fail" model (Fletcher, Lyon, Fuchs, and Barnes, 2007). Other problems also were associated with the use of IQ tests, such as concerns about the validity of IQ measures in populations that are culturally and linguistically diverse (Gunderson and Siegel, 2001). Moreover, IQ and achievement tests do not tap completely independent abilities, but rather interact in some important ways. For example, verbal abilities such as vocabulary are acquired in part through reading, and poor readers typically have much less experience reading than do good readers; therefore, a longstanding reading problem could

ultimately lead to a decline in a student's IQ score (Stanovich, 2000).

Another critical problem with the IQ-achievement discrepancy is that research does not support excluding students from services based on their failure to meet IQ-achievement discrepancy criteria. Struggling readers with an IQ-achievement discrepancy and those without a discrepancy tend to have similar remedial needs and benefit from similar types of interventions (Gunderson and Siegel, 2001), yet nondiscrepant low achievers may be erroneously viewed as intellectually limited and incapable of improvement. The IQ-achievement discrepancy also appears to contribute to biased identification practices. For example, several studies have found that the use of a discrepancy model in reading favored identification of Caucasian students and middle- and upper-income students; whereas students of color and students from lower socioeconomic backgrounds were more likely to be identified as having an intellectual disability (Fletcher et al., 2007; Speece, Case, and Molloy, 2003). Since students from nonmainstream cultural groups often possess cognitive styles that differ from those typically promoted by the schools, the inappropriate use of standardized tests that are not normed or validated for a specific population often perpetuates cultural misunderstandings, which in turn contributes to poor instructional decision-making (McIntyre, 1996). Aaron, Joshi, Gooden and Bentum (2008) and Vaughn, Levy, Coleman, and Bos (2002) argued that testing for an IQ-achievement discrepancy often does not provide instructionally useful information and may contribute to inadequate remedial efforts.

Although much of the research on problems with the IQ-achievement discrepancy is in the domain of reading, most of the previously mentioned problems clearly apply to other domains as well, such as mathematics and written expression. The IQ-achievement discrepancy has the same "wait to fail" limitations in mathematics and written expression as it has in reading and does not help educators plan effective interventions across a variety of academic domains. Considered as a whole, the findings described above undermine an educational distinction based on an IQ-achievement discrepancy model.

It should be noted that, although the use of an IQ-achievement discrepancy in identification of learning disabilities is problematic in numerous ways, disagreement exists on whether IQ tests provide information essential to assessment and intervention planning for students with learning disabilities. In a review of several meta-analyses on this issue, Swanson (2009) argues that IQ, especially verbal IQ, provides information useful both in identification of learning disabilities and in understanding treatment outcomes. In contrast, in their review of the literature, Fletcher et al. (2007) conclude that IQ tests do not generally provide educationally useful information beyond that obtainable from other measures typically given in a comprehensive evaluation, such as measures of academic functioning and language.

Debates surrounding the use of processing measures. Determining the presence of a specific processing disorder has historically been problematic for professionals in the field and continues to be an area ripe for debate. One particular area of difficulty involves the technical adequacy, especially validity, of some processing measures, which often leads to misinterpretation and overgeneralization of findings. Although there are technically adequate tests in some areas, such as phonological processing measures for students with reading difficulties, other processing measures used in identification of learning disabilities remain problematic (Fletcher et al., 2007; Salvia and Ysseldyke, 2004). For example, scientific research on visual processing typically employs stimuli presented briefly, using a computer, because it is important to measure pure visual processing independent of linguistic or motor processes. However, visual processing measures employed in educational testing frequently involve relatively long presentation times as well as paper-and-pencil tasks. If a student does poorly on these kinds of measures, it is difficult to ascertain whether the problem is due to difficulties with visual processing, language processing, motor skill, or some combination of these factors. In addition, there is little evidence that matching interventions to students based on their processing profiles, such as whether they are "visual

learners” or “auditory learners,” is effective (Fletcher, Morris, and Lyon, 2003). The choice of assessment instruments, as well as having a thorough understanding of the technical characteristics of any measurement tool, remains the professional responsibility of the evaluator.

Even when appropriate processing measures are used, the information obtained may not necessarily add educational value over and above information that is already available from achievement and language measures (Fletcher et al., 2007). Low scores on processing tests, by themselves, do not necessarily indicate the presence of a genuine “disorder” because experience and instruction can influence a student’s performance on processing measures. For example, a student who obtains a low score on a test of phonological awareness might appear to have an intrinsic processing disorder, but also may have performed poorly due to insufficient experiences with the phonological aspect of language, insufficient instruction in phonological awareness or a weak understanding of the metalinguistic demands of the task itself. Thus, the indiscriminate use of measures to document a processing disorder can consume considerable time and resources, potentially delaying services, and leaving less time and fewer resources to meet students’ instructional needs.

Conversely, a substantial link for a causal relationship between cognitively based information processing and learning disabilities has been described in the literature over the past decade, particularly in area of reading achievement (Floyd, Keith, Taub and McGrew, 2007; Hulme, Snowling, Caravolas and Carroll, 2005; Meltzer and Krishnan, 2007; Torgesen, 2002). The use of appropriate, technically adequate processing measures may provide additional insight into the individual cognitive underpinnings of a student’s suspected learning disability and may contribute to identifying alternative interventions and instructional strategies that need to be developed for specialized instruction to occur. As Kavale and Spaulding (2008) indicate, a comprehensive evaluation, especially one including cognitive processing assessment, connects the identification of a specific learning disability (SLD) with a clearly articulated IDEA definitional component: “a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written” (34 Code of Federal Regulations Section 300.8[c](10)). Furthermore, in a meta-analysis of 32 studies regarding the evaluation of cognitive processes to inform the identification of a specific learning disability, Johnson, Humphrey, Mellard, Woods and Swanson (2010) found differences of sufficient magnitude between groups of students with SLD and typically achieving students to justify including appropriate, technically adequate measures of cognitive processing ability in a comprehensive evaluation of students suspected of having a specific learning disability. They suggest that some students, despite being of average ability, may fail to achieve even when provided with high-quality instruction because of underlying specific cognitive processing deficits. Therefore, student performance on appropriate kinds of processing measures may certainly be taken into account in the identification of learning disabilities in cases where the Planning and Placement Team (PPT) believes such information, especially as it relates to the suspected area of disability, may be helpful as part of a comprehensive evaluation in developing more targeted instruction. (*The PPT is the Connecticut equivalent of the individualized education program [IEP] team described in IDEA.*)

Debates surrounding general education practices. Many investigators (e.g., Allington and McGill-Franzen, in press; Moats, 1999; Spear-Swerling, 2004a) have raised concerns about the role of inadequate general education practices in students’ learning problems. These investigators suggest that some students classified as having learning disabilities are actually curriculum casualties whose difficulties stem mainly from ineffective general education practices rather than true disabilities in learning. Furthermore, research suggests that contextual factors heavily influence individual teachers’ willingness to refer students for evaluations for possible learning disabilities. For example, although serious reading difficulties are roughly as common in girls as in boys, teachers are more likely to refer boys to special education, because they are more likely

to perceive boys as behavior problems (Shaywitz, 2003). The influence of contextual factors is further illustrated by Drame (2002) who gave teachers descriptions of students with academic and behavioral difficulties and asked teachers to make recommendations regarding evaluation referrals for learning disabilities. Teachers at schools with well-defined early intervention services and teachers who used a combination of grouping practices were less likely to recommend referral than were teachers who lacked access to well-defined early intervention or those who relied heavily on whole-class groups for teaching reading.

It is well documented that effective general education practices make a difference in student achievement (Juel and Minden-Cupp, 2000; Marzano, Pickering and Pollack, 2001; National Reading Panel, 2000; Reeves, 2002). Well-designed, research-based interventions can improve outcomes greatly for most low achievers (Al Otaiba, 2001; Denton, Fletcher, Anthony, and Francis, 2006; Fuchs, Fuchs and Hollenbeck, 2007; Vellutino and Scanlon, 2002). The 1999 state guidelines recognized the importance of ensuring that students considered for evaluations for possible learning disabilities had adequate instruction and opportunities to learn. These guidelines addressed this issue through a requirement for documentation of early intervening services in the student's area of difficulty (e.g., basic reading, reading comprehension, math calculation, math reasoning). Requirements for early intervening services were extensive and rigorous relative to those of other states at the time. For instance, prior to considering students with decoding difficulties for evaluation for possible learning disabilities, requirements included providing explicit small-group interventions in phonemic awareness, multisensory code-based instruction, synthetic phonics instruction, analytic phonics instruction, and daily fluency practice. For students with math difficulties, requirements for early intervening services included providing opportunities for guided and independent practice, instruction using manipulatives, and individual or small group direct instruction to re-teach weak skills. These early intervening service requirements were progressive for their time. They also addressed requirements in IDEA 1997 to rule out inappropriate instruction prior to identifying students with disabilities. Unfortunately, however, while early intervening services are vital, they do not address potential problems in core general education practices, such as the use of an inadequate curriculum, ineffective instructional strategies, or inconsistencies in practices across teachers or grades.

Students with learning disabilities in Connecticut. In the 2007-08 school year, the most recent year for which data are available, the Connecticut State Department of Education's Bureau of Data Collection, Research and Evaluation reported that 22,312 Connecticut public school students were identified with a specific learning disability, accounting for 4 percent of all public school students in the state. As compared to the previous three years, the number of students with a specific learning disability as a percentage of the total public school population declined by 9.2 percent. However, of all students with disabilities, students with a specific learning disability remain the largest single category of students in special education in Connecticut, representing 34.6 percent of all students with disabilities in the 2007-08 school year. By comparison, 4.2 percent of the special education population were students with intellectual disability, 9.1 percent were those with emotional disturbance, and 6.3 percent were those with autism.

While the total number of students identified with a specific learning disability has decreased, the diversity of this student subgroup has increased. Approximately 40 percent of students identified with a specific learning disability were African-American or Hispanic, an increase of 2 percentage points from previous years. Furthermore, by the 2007-08 school year, 7 percent of students with a specific learning disability were also English language learners. Almost 40 percent of students with a specific learning disability were also eligible for either free or reduced-price meals. Of students with a specific learning disability, 99 percent took standardized assessments such as the Connecticut Mastery Test (CMT) and the Connecticut Academic Performance Test (CAPT) and achieved proficiency at levels commensurate with or better than the total special education

population but significantly below the level of the general education population.

Important federal legislation. In the 10 years since the 1999 Connecticut *Guidelines for Identifying Children with Learning Disabilities*, the federal government has passed two important pieces of legislation relevant to students with disabilities: the No Child Left Behind (NCLB) Act of 2001 (U.S. Department of Education, 2007) and the Individuals with Disabilities Education Improvement Act, IDEA 2004. Improved outcomes for *all* students, including those with disabilities, are the keystone of NCLB. IDEA 2004 upholds this expectation for students with disabilities by embracing the specific language used in NCLB regarding the necessity for highly qualified personnel, the delivery of “scientifically based academic and behavioral interventions, including scientifically based literacy instruction,” (34 CFR § 300.226[b]{1}) and student assessment. NCLB identifies the essential components of reading instruction as “explicit and systematic instruction in: phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension strategies.” (20 USC 6368 § 1208[c]) Furthermore, IDEA 2004 introduced major changes to the ways in which school districts can identify students with specific learning disabilities. These changes were in response to problems with existing identification criteria noted in the beginning of this document, as well as to other evidence that suggested effective ways to identify and teach students with learning disabilities (Fletcher et al., 2007; National Reading Panel, 2000; President’s Commission on Excellence in Special Education, 2002).

Definition of a Specific Learning Disability

IDEA 2004 defines a specific learning disability (SLD) as:

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 the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability 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. (34 CFR § 300.8(c)(10))

This definition is unchanged from those found in previous versions of federal law, such as IDEA 1997, and unchanged from the definition in the 1999 state guidelines.

Purpose of this Revision

This 2010 revision of the *Guidelines for Identifying Children with Learning Disabilities* (Connecticut State Department of Education, 1999) has five primary goals:

- to ensure Connecticut’s compliance with the IDEA 2004 requirements for the identification of students with learning disabilities;
- to align Connecticut’s guidelines for the identification of students with learning disabilities with current scientific evidence-based research;
- to promote the implementation of statewide uniform and valid identification processes and procedures that are culturally relevant, nonbiased and nondiscriminatory both within and across school districts in Connecticut;

- to use information obtained through the identification process to develop and implement an individually designed education program with appropriate services and support to achieve educational benefit, as evidenced by data demonstrating student growth; and
- to improve outcomes for students with learning disabilities through more accurate identification procedures using technically adequate and educationally relevant measures.

**Westport Public Schools
Multidisciplinary Evaluation Report for
Students Suspected of Having a Specific Learning Disability**

Student: _____ Date of Birth: _____ Grade: _____
School: _____ Date of Report: _____

The following information must be reviewed by the Planning and Placement Team and documented in the appropriate spaces.

I. Required Evaluation Components

A. Parental Input:

B. Interventions and Instructional Strategies Used Prior to Referral:

[All student-centered intervention and progress monitoring data is attached, including information from math, reading, and/or writing worksheets, as appropriate. Data should include implementers and dates of progress monitoring.]

C. Educationally Relevant Medical Findings, if any: N/A

D. Regular Classroom Observation: Area of Difficulty: _____

Academic setting: _____ Date(s): _____

Observer(s) : _____

Behavior observed and the relationship to academic functioning: _____

E. Assessment Information:

<u>Assessment</u> (e.g., curriculum-based, standardized, criterion-referenced)	<u>Evaluator (Name and Title)</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

II. Criteria Respond to each criteria used to determine eligibility for students suspected of having a specific learning disability.		Criteria Met	
		YES	NO
<p>A. Is student achieving adequately for the student's age or meeting State-approved grade-level standards in one or more of the following areas when provided with learning experiences appropriate for the student's age or State-approved grade level standards? If NO, indicate in which area(s) student is NOT achieving adequately below:</p> <p style="text-align: center;"><i>[Note: At least <u>one</u> area must be identified.]</i></p> <p> <input type="checkbox"/> mathematics calculation <input type="checkbox"/> mathematics problem solving <input type="checkbox"/> oral expression <input type="checkbox"/> written expression <input type="checkbox"/> listening comprehension <input type="checkbox"/> reading comprehension <input type="checkbox"/> fluency <input type="checkbox"/> basic reading skills </p>			*
<p>B. Is student making sufficient progress in the area identified above to meet age or State-approved grade-level standards, even with scientific research-based interventions?</p>			*
<p>C. The student has been provided with explicit and systematic instruction in the essential components of scientific, research-based reading instruction or math from a qualified teacher, including regular assessments of achievement to document the student's response to scientific, research-based intervention as a part of the evaluation procedures.</p>		*	
<p>D. Learning difficulty is <i>primarily</i> due to:</p>		YES	NO
1. Lack of instruction in math, reading or writing ^o (<i>Based on Math, Reading or Writing Worksheets</i>)			
2. A visual, hearing or motor disability			
3. Intellectual Disability			
4. Emotional Disturbance			
5. Cultural factors			
6. Environmental or economic disadvantage			
7. Limited English proficiency			
		<p>Note: If all of the (✓)'s are in the NO column, then the student meets the criteria for II D (i.e., "learning difficulty is NOT the result of" these other factors).</p>	
<p>E. Has NO been (✓)'d for all items in D above (#1-7)?</p>			
<p>F. Does information gathered through the required evaluation components (including consideration of a dual discrepancy**) indicate that a specific learning disability exists in the area identified above (in A)?</p> <p>– If a specific learning disability exists in one of the eight areas above (in II A), attach a summary statement of all formal and informal assessment data used to document the existence of such a disability.</p>			
<p>G. Are special education and related services required to address the specific learning disability identified in II F?</p>			

*Criteria A-C: The student has been provided with scientific, research-based interventions in area of concern and repeated measures of progress were utilized to determine the student's response to the intervention(s).

^oCriteria D-1: Math, Reading and/or Writing Worksheets are attached (unless math, reading and/or writing are not an area of weakness).

**Dual Discrepancy: Dual discrepancy means that a student has BOTH low performance relative to age or grade level standards AND insufficient progress even when provided with scientific, research-based interventions.

Statements of Assurances:

H. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction (i.e., progress monitoring) has been provided to parents.

Date(s) information provided: _____

I. Student's parents were notified about state policies for performance, strategies for increasing the student's rate of learning and parent's right to request an evaluation.

Date(s) information provided: _____

J. The IQ/discrepancy (ability/achievement) model was not used to determine eligibility.

K. A disorder in one of the basic psychological processes in understanding or in using spoken or written language was not required as part of the eligibility decision.

The Planning and Placement Team has reviewed the information presented and has made the determination that the student has a specific learning disability and requires special education services:

YES [All criteria (A-G) have been met.] NO

Each team member certifies by his/her signature that this report reflects her/his conclusion. (**Bold** means required.)

Signature

Title

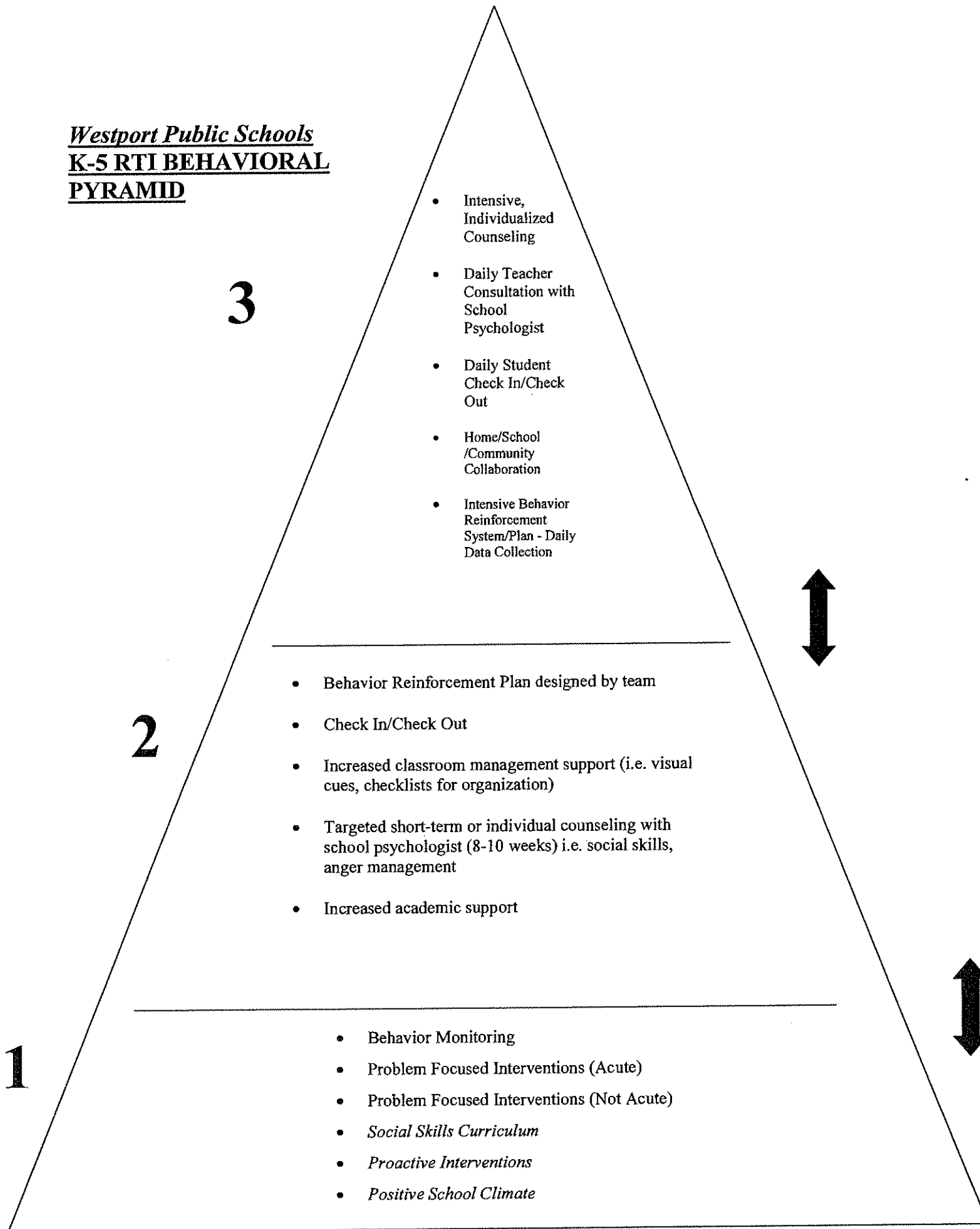
_____	General education teacher _____
_____	Examiner/special education instruction _____
_____	Examiner/pupil personnel services _____
_____	Administrator _____
_____	Other _____
_____	Other _____

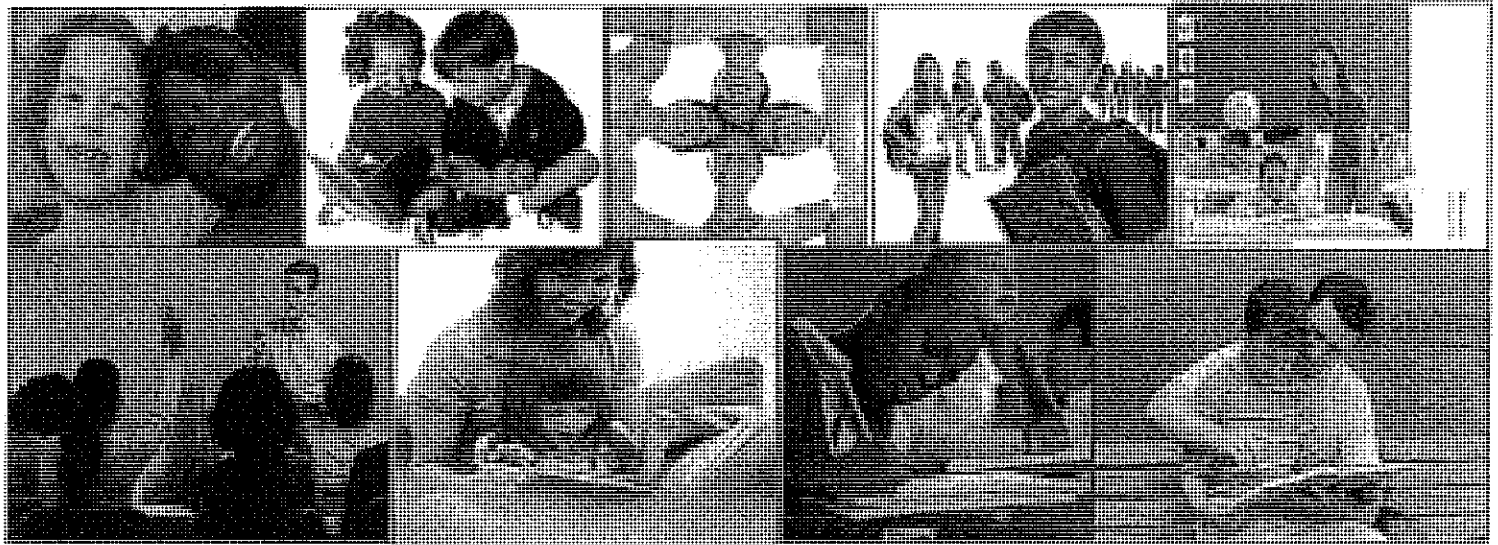
If this report does not reflect a team member's conclusion s/he must indicate below her/his reasons and conclusion.

Name: _____ Title: _____ Signature: _____

Reason(s) and conclusion:

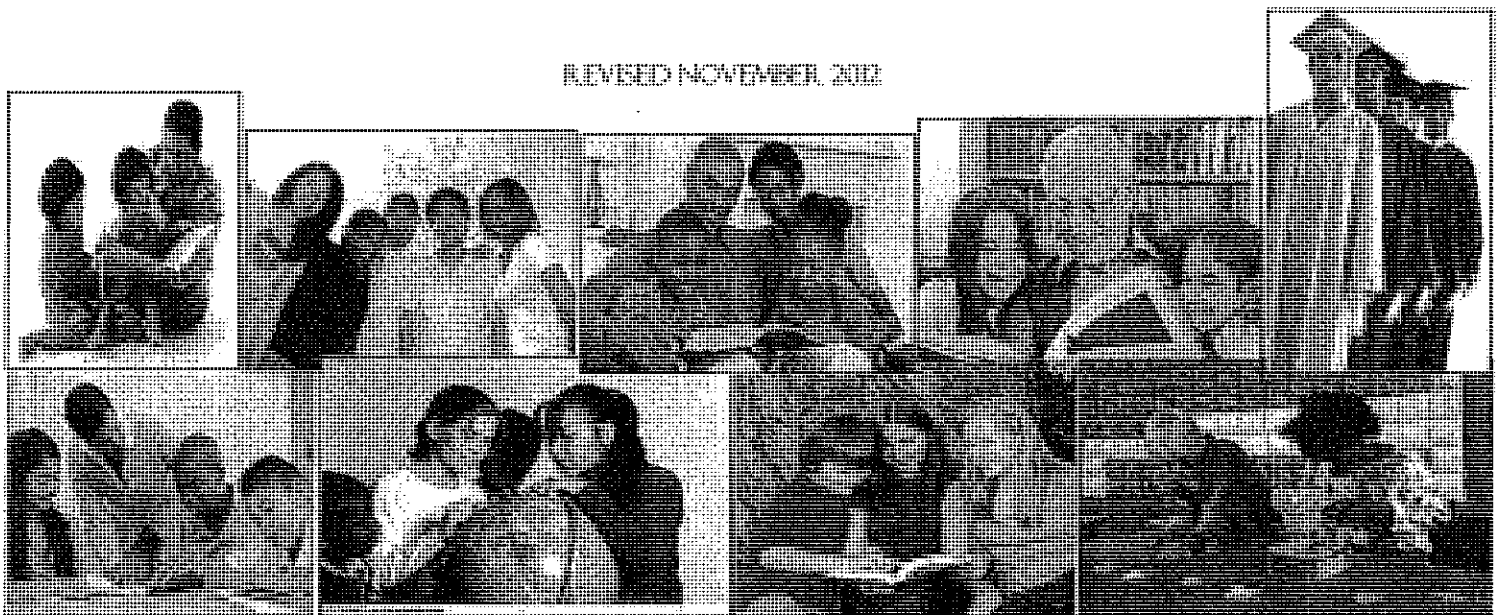
Westport Public Schools
K-5 RTI BEHAVIORAL
PYRAMID





***GUIDELINES for
IDENTIFYING and
EDUCATING
STUDENTS with
EMOTIONAL
DISTURBANCE***

REVISED NOVEMBER, 2012



Overview

The purpose of this guideline document is to provide educators, parents, guardians, surrogates and mental health professionals in Connecticut with recommended practices concerning eligibility determination, assessment and program services for students with emotional disturbance (ED). As described in these guidelines, students with ED exhibit atypical behavior and emotions that are persistent, generalized and extended over time and situations. This atypical behavior and emotional expression adversely affect their educational performance and are significantly outside the norm of their age-level peers. Although many students may at times exhibit disturbing school behavior that appears consonant with the definition of ED, they are not necessarily eligible for special education services. The absence of key distinguishing features, such as "pervasiveness" will preclude some students from meeting the criteria for ED. These considerations and other features will be described and clarified within this document.

This guideline document is arranged in five major sections: (1) Best Practices in Prevention and Intervention; (2) Definition and Interpretation; (3) Assessment and Eligibility; (4) Key Elements for Effective Individualized Program Services; (5) Tools to Assist Planning and Placement Teams (PPTs); and an additional resource Empirically Supported Prevention and Intervention Strategies.

Section 1, Best Practices in Prevention and Intervention, addresses early intervening services within the SRBI framework and provides a broad outline of a comprehensive system of social emotional learning and behavioral supports for students experiencing social, emotional and or behavioral difficulties. Additionally, positive behavioral support strategies and considerations related to preschool age children are discussed.

Section 2, Definition and Interpretation, presents Connecticut's definition of ED and provides guidelines for appropriate application of the definition criteria to determine eligibility for special education and related services. In addition, special considerations that require attention and deliberation by the team are addressed.

Section 3, Assessment and Eligibility, focuses on best practices in an assessment process that conform with the ED definition, the development of an Individualized Education Program (IEP) following a comprehensive evaluation process, and appropriate assessment techniques to monitor student performance to determine the need for modifications that address the student's changing needs. Each subtopic is designed to support appropriate assessment practices and eligibility determinations. Additionally, practices to address disproportionality are discussed.

Section 4, Key Elements for Effective Programs and Services, describes components of school-based programs that help students with ED achieve academic success, foster self-esteem, promote appropriate behavior, encourage successful emotional functioning and cultivate positive interpersonal relationships. This section provides recommended guidelines that ensure quality professional practices. The guiding

statements focus on a renewal of commitment to appropriate program development required to meet the challenges that are presented by students with ED.

Section 5, Tools to Assist Planning and Placement Teams (PPTs), provides guidance and information (worksheets, etc.) to support early intervening strategies for students and assist PPTs in their mission from the process of determining eligibility to the development of appropriate behavior interventions and specialized instruction for students identified as ED. Copies of the current state and federal regulations affecting students with ED are also included for reference.

Another resource is provided in section 6, Empirically Supported Prevention and Intervention Strategies. This section is intended to provide the structural essentials of a comprehensive, systemic design for implementing proactive interventions and supports. Examples of interventions that could be implemented using a school's existing resources are outlined within the SRBI framework.

Section 1

Best Practices in Prevention and Intervention

Scientific Research-Based Interventions



In August 2008, the CSDE Bureau of School Improvement published *Using Scientific Research-Based Interventions: Improving Education for All Students Connecticut's Framework for RTI (2008)*. This document outlines Connecticut's SRBI framework for the implementation of response to intervention (RTI). SRBI aims to provide high-quality instruction and interventions matched to student need, using frequent monitoring of student progress, which drives decisions regarding changes in instruction and interventions and focuses on the application of student response data to inform educational decisions. SRBI emphasizes successful instruction for all students through high-quality **core general education practices** as well as targeted interventions for students experiencing learning, social-emotional or behavioral difficulties. *Using Scientific Research-Based Interventions: Improving Education for All Students-Connecticut's Framework for RTI (2008)* core general education practices refer not only to practices related to important academic areas, but also include the application of strategies and interventions which promote a positive school climate and a comprehensive system of social-emotional learning and behavioral supports. *Using Scientific Research-Based Interventions: Improving Education for All Students-Connecticut's Framework for RTI (2008)* applies to special education as well, creating an integrated system of instruction and/or intervention which is guided by child specific data.

When implemented with fidelity, SRBI will help to ensure effective universal practices for all students, including those with disabilities. A student with a disability, such as ED, can benefit from access to the core practices and differentiated instruction at Tier I, targeted interventions at Tier II and/or intensive interventions at Tier III as well as accommodations and modifications and/or specialized instruction as outlined in a 504 Plan or the IEP. By developing general education practices that are more responsive to student needs, an increased number of students with disabilities, including those with ED, will be included in the general education classroom.

The basic principles of SRBI are as relevant to special education as general education and should be applied to both. Basic principles include:

- use of scientific research to inform practice;
- need for accountability and transparency;
- culturally and ethnically responsive teaching;

- fidelity of implementation; and
- data driven decision-making.

Key factors that are essential in SRBI in promoting student success include:

- effective district and school leadership;
- high quality ethical teaching;
- pre-service and job embedded professional development;
- collaboration with special services;
- family engagement; and
- access/use of technology.

To be effective in promoting the social, emotional and behavioral growth of students, SRBI has to be part of a broad effort to provide positive behavioral interventions and supports (PBIS). This effort needs to be schoolwide, proactive, comprehensive and systematic in providing a continuum of supports designed to afford opportunities to all students, including those with identified emotional or behavioral disabilities. While traditional behavior management practices seek to eliminate undesirable behaviors, PBIS and the use of functional assessments increase the capacity of school and district personnel to adopt and sustain the use of effective behavioral practices. Such practices not only address the specific needs of students with severe behavior problems but also can result in improved school climate and an increase in the achievement level of all students.

The SRBI framework also encompasses the social, emotional and behavioral perspective. The literature supports the use of a tiered approach in the implementation of behavior intervention strategies (Tilly, 2008; Tobin, Schneider, Reck and Landau, 2008; Grisham-Brown, 2008). All students, including those who experience social, emotional and or behavioral difficulties can benefit from access to universal practices, differentiated instruction and interventions at Tier I, targeted interventions at Tier II and intensive interventions at Tier III.

Tier I interventions are characterized by their universal design and provide differentiated instruction for all students. These interventions are preventive and proactive in nature. Essential elements of Tier I interventions require that actions be:

- proactive, positive and preventive in nature;
- based on the use of empirically validated procedures;
- done in collaboration with community supports;
- based in a common approach to discipline and climate;
- culturally responsive; and,
- cognizant of linguistic diversity, addressing the needs of linguistically diverse students.

Tier I practices in the social emotional domain are comprehensive and aligned with state standards and student outcomes. These practices are culturally responsive and promote a positive and safe school climate. Tier I interventions include but are not limited to, explicit schoolwide behavior expectations, the implementation of a differentiated social emotional learning curriculum, the use of effective classroom management, recognition and reinforcement programs such as student of the month and the use of a positive rewards menu. Preventive steps that can reduce potential for behavioral difficulties include establishing a healthy school climate, teaching essential social skills such as showing respect to self and others, and establishing positive behavior supports that facilitate an effective classroom environment.

Tier II interventions are characterized as targeted interventions, which are limited or short term in duration, delivered to small groups and involve collaboration between the teacher and an interventionist such as a school psychologist, special education teacher, principal, behavior specialist, school counselor, school social worker or other support person with skills specific to the needs of the student. Essential elements of Tier II interventions require that actions be:

- short term;
- targeted and specifically matched to student's need;
- implemented with fidelity;
- provided within a small group;
- supplemental to the core program ("in addition to" not "instead of");
- research based or empirically supported;
- culturally responsive; and
- sensitive to linguistic diversity, addressing the needs of English Language Learners (ELL) and varieties of English.

Tier II, targeted interventions include but are not limited to, small group behavior contracts, check-in/check-out systems, counseling or guidance groups, lunch bunch, conflict resolution groups, parent conferencing, social skills training, mentoring and self-management programs.

For students making inadequate progress with universal and supplemental or targeted interventions at Tiers I and II (based on data from progress monitoring), an increase in the intensity or characteristics of intervention, along with different, more specialized interventions, should be considered at Tier III. The difference between targeted and intensive interventions is characterized by increased intensity and individualization. Essential elements of Tier III interventions require that actions be:

- short term;
- supplemental to core program and targeted interventions (may require interventions within all three tiers);
- research- and/or evidence-based;

- individualized;
- highly explicit, systematically targeting the need;
- implemented with fidelity;
- supported by personnel with a high degree of expertise (as appropriate);
- designed around function based support plans;
- culturally responsive; and,
- sensitive to linguistic diversity.

Intensive or Tier III interventions might include but are not limited to increasing the intensity and frequency of Tier II interventions, conducting assessments to determine the function of challenging behavior and implementing behavior support plans, individualized student/family supports planned through wrap around processes, weekly progress reports, parent conferencing (more frequent) and consideration of additional, more comprehensive assessments.

Parents/guardians and families play a vital role in supporting their schools and students. When families are involved and support children's schooling, the children clearly benefit (Snow et al., 1991). Beyond the need for district personnel to inform parents about the SRBI process, including general education service, intervention strategies and the detail of data to be collected, parents/families must be promptly notified of concerns specific to their child's behavior, social-emotional status and academic performance.

Additionally, ongoing information related to student progress must be provided to parents/families.

Throughout the intervention process, parents/families need to be engaged and invited to incorporate knowledge of their child and analysis of the child's learning or behavior. Parents/families provide critical and unique information that can be used by school personnel in determining appropriately tiered interventions within the SRBI framework. Families need to be actively involved in progress monitoring activities and districts have a responsibility to provide families with ongoing information and data related to student progress in a clear and understandable format.

If a student does not demonstrate adequate progress at the conclusion of an intervention period, the team, including the parent/family, should closely examine and analyze data to investigate the reason why.

Thorough observation by another staff member, close examination of student performance and/or additional diagnostic assessments should be considered. In addition, attention should be given to social context. Determinations related to appropriateness of the targeted behavior, interventions utilized and the fidelity of implementation of the interventions should be made. In addition, a comprehensive evaluation, which assesses all areas related to a suspected disability (including if appropriate, health, vision, hearing, social-emotional status, general intelligence, academic performance, communicative status and motor abilities (IDEA Section 300.304[C][4]), may also be necessary. The documentation of Tier III progress monitoring, as well as current assessments can be used to inform the design of a comprehensive evaluation to determine that a student has a disability and is eligible for special education.

Connecticut state regulation requires "prompt referral" for determining eligibility for special education if a student has been "suspended repeatedly or whose behavior, attendance or progress in school is considered unsatisfactory or at a marginal level of acceptance" (10-76d-7). When deemed necessary or at the request of a parent, school personnel, or others, the prompt referral to the PPT can be initiated **at any time during the intervention period**, to decide whether a comprehensive evaluation is warranted to determine eligibility for special education. As outlined in IDEA 2004, families and school personnel always have the right and responsibility to refer a student for consideration for eligibility for special education services. This referral can be conducted at any time, including prior to the full implementation of tiered interventions.

The school must respond to all referrals through a PPT meeting. Based on a review of the referral, the PPT can determine whether an evaluation to determine special education eligibility is warranted. A thorough examination and analysis of the current data, classroom assessments and student progress may indicate to the team that interventions in place through SRBI are appropriate and have resulted in adequate progress indicating that further evaluation is not necessary. However, if the student has not made adequate progress and the analysis of the current data supports a suspicion of a disability, an initial evaluation as defined in 34 Code of Federal Regulations (C.F.R.) Section 300.01 (a) through (e) needs to be conducted. A copy of the federal regulations (34 C.F.R. Sections 300.301 through 300.305, inclusive) related to evaluation and determination of special education eligibility can be found in section 5 of this document.

The following diagram illustrates a schoolwide or districtwide comprehensive system of social emotional learning and behavioral supports, through a tiered approach and is a revision of the original diagram found in *Using Scientific Research-Based Interventions: Improving Education for All Students-Connecticut's Framework for RTI (2008)*.

A tiered intervention system, as defined in the SRBI framework, when implemented with fidelity, will provide a problem-solving model designed to produce improved outcomes for all students. Moreover, it is consistent with federal legislation IDEA 2004 and the No Child Left Behind Act of 2001 (NCLB) as well as scientific research and empirically supported prevention, and intervention strategies.

For additional information on SRBI, refer to CSDE's document *Using Scientific Research-Based Interventions: Improving Education for All Students-Connecticut's Framework for RTI (2008)*.

A Note on Positive Behavioral Support Strategies

Positive behavioral support (PBS) strategies involve the use of a continuum of evidence and/or research-based practices for promoting the academic and social behavior success of all students. These schoolwide strategies promote systemic change, improved social skills and decreased use of punitive interventions (i.e., punishment or suspension). PBS strategies are part of a systems approach to improving school climate, discipline and achievement. A PBS framework facilitates a proactive and structured schoolwide and classroom environment that increases student achievement and helps to improve student behaviors both in and outside of the classroom. Implementation adjustments and enhancements of PBS strategies are maximized through continuous data-based progress monitoring at the school, classroom and individual student levels. As a result, more reflective, effective, efficient, relevant and sustainable positive learning communities are promoted; and staff, students and family member capacity to support student behavior and academic achievement is enhanced.

The development and implementation of positive schoolwide academic and behavioral support strategies include:

- team-based, collaborative and strategic action planning activities for improving schoolwide climate and individual students' needs;
- teaching and reinforcement of schoolwide classroom and individual student social skills; and expectations that promote and preserve a positive school and classroom climate;
- classroom and schoolwide environments with clear, concise expectations that foster fair and equitable discipline designed to promote pro-social skills, and prevent development and occurrence of problem behavior;
- parent participation through sharing comprehensive information about student performance, involvement in decision making and active implementation engagement;
- evidence-based, classroom and individual student practices that prevent negative interactions and foster positive interactions; and are organized in an integrated and data-based continuum of implementation support;

- community support systems (i.e., community mental health and medical) that are collaborative, culturally relevant and effective;
- effective, efficient, ongoing and relevant professional development for all staff members (e.g., effective instructional and classroom management practices);
- function-based approaches to understanding problem behavior and developing effective behavior intervention plans (BIPs); and
- effective school and district leadership to support implementation of positive behavioral support strategies. (Excerpt from *Guidelines for In-School and Out-of School Suspensions* [CSDE, 2010])

A Note on Preschool-age Children

The intent of Connecticut's response-to-intervention framework, SRBI, is to improve educational outcomes for all students in prekindergarten-Grade 12. While public elementary school begins at kindergarten for students who are age 5 on or before January 1 of the school year, public school districts have an obligation to provide special education to preschool-age students with disabilities who are found eligible for special education at age 3. Public schools may also provide a public preschool education to students without disabilities.

It is essential to recognize the multidimensional and interrelated nature of early learning and development of the preschool child. This recognition may make it difficult to identify and determine whether young children's behavioral or learning challenges are in fact related to a specific disability. Consideration must be given to maturational growth and development, as well as biological and/or environmental, and socioeconomic factors relative to the individual child and their family. Preschool-age students may have limited early learning opportunities and minimal occasion to acquire social-emotional and behavioral skills for a number of reasons. Therefore, when considering the identification of a young child as a child with an emotional disturbance, the PPT must exercise caution.

To address the special considerations relative to the preschool child, minimize later behavioral difficulties and avoid inappropriate identification of a disability, all children should benefit from the provision of a high-quality education as well as targeted support for children who demonstrate emotional or behavioral challenges. The provision of targeted interventions and appropriate supports to students, including those of preschool age, does not require the identification of a disability. A systematic approach that assists early childhood educators and parents in ensuring early school success for all children, including those that may be inclined to develop emotional and behavioral difficulties, can be implemented for 3- and 4-year-old students in the preschool grade. The framework for a systematic approach can be found in the recognition and response system, the basis of which originates in RTI and in Connecticut, SRBI, which place the focus on the provision of a high quality education for all students and targeted interventions for students who are

at risk. The emotional and behavioral challenges of 3- and 4-year-olds in the preschool setting can be addressed at the preschool level through the application of the essential elements of the recognition and response system, which is typically illustrated through the pyramid. The fundamental components include the provision of an intervention hierarchy, providing increasing levels of intensity of instruction related specifically to the child's need; screening assessment and progress monitoring, which relies on multiple methods and sources, and can be used to determine if a child is meeting specific benchmarks and making adequate progress; research-based or empirically supported interventions and instruction; and the implementation of a collaborative problem solving process for decision making (FPG Child Development Institute of the University of North Carolina at Chapel Hill <http://randr.fpg.unc.edu/origins-rr-response-intervention-rti>).

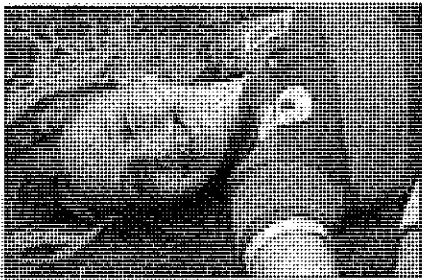
While a referral to consider eligibility for the receipt of special education services can be initiated at any time before or during the provision of targeted interventions, children who receive behavioral supports at an increased level of intensity and individualization, and do not respond to targeted supports over a reasonable period of time, and continue to manifest behavioral challenges should be evaluated to determine if they are a child with a disability. The comprehensive evaluation and assessment of young preschool-age students to determine if they have a disability that will require special education and related services should include multiple components. Parent participation is essential in the evaluation process, as they hold key information related to their child's early development as well as information related to their child's early learning experiences and opportunities.

The *Guidelines for Identifying and Educating Students with Emotional Disturbance* applies to all students preschool through Grade 12, who are served by public schools, though special consideration must be taken in applying the guidance to the preschool population.

Section 2

Definition and Interpretation

Definition of Emotional Disturbance



The definition used in Connecticut for students with ED follows the definition contained in the federal IDEA. Connecticut General Statutes (C.G.S.) Section 10-76a defines the condition as follows:

Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, that adversely affects educational performance:

- a. an inability to learn that cannot be explained by intellectual, sensory or health factors;
- b. an inability build or maintain satisfactory interpersonal relationships with peers and teachers;
- c. inappropriate types of behavior or feelings under normal circumstances;
- d. a general pervasive mood of unhappiness or depression; or
- e. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

This definition requires that educators identify as eligible for special education under IDEA **only** those students with emotionally based disturbance rather than solely a social maladjustment. Therefore, the section that follows provides guidance to educators in interpreting the definition for identifying or re-determining eligibility for special education under this classification.

Note: The 2004 reauthorization of the IDEA (Public Law 105-17) retains the same definition, continuing to use the term serious emotional disturbance but abbreviates the term to "emotional disturbance" after the initial reference. This wording in federal law has no substantive implications for practice in Connecticut.

Emotional Disturbance: Defining Criteria

In determining eligibility under the IDEA, the PPT must:

1. **Decide if a student has an emotional condition that is manifested by one or more of the five characteristics listed in the definition of emotional disturbance, specifically:**

- 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.

2. Determine that these characteristics meet the qualifying conditions or limiting criteria of:

- having an adverse effect on educational performance;
- occurring over a long period of time (chronicity); and
- occurring to a marked degree (severity).

One requirement of establishing special education eligibility due to an emotional disturbance is that one or more of the five characteristics listed in the definition is present. The definition further requires that the characteristics must have an adverse effect on educational performance, be exhibited for a long period of time and to a marked degree (i.e., frequent and intense). Eligibility determination should be based on evidence drawn from different environments and should take into account the student's developmental stage as well as environmental, cultural and linguistic factors.

When considering the defining criteria of ED, the PPT must address the following questions:

Question 1: Has the student been exhibiting, for a long period of time and to a marked degree, any of the five characteristics that define the condition?

Long period of time: The standard for duration is not precisely specified. The literature frequently refers to several months as an appropriate standard. The intention is to avoid identifying a student as eligible for special education who is temporarily reacting to a situational trauma. The characteristics must be evident over time as well as across situations.

Marked degree: The qualifying condition of severity requires that the problems are significant and apparent to school staff members who observe the student in a variety of settings and situations. A comparison is made with the student's appropriate peer group. The behavior and emotions exhibited must be more severe or frequent than typically expected for individuals of the same age, gender and cultural group.

Characteristics that define ED: In determining that one or more of the characteristics is present, it is required that the characteristic is persistent, generalized and extended over time and situations. The defining characteristics of ED are reflected in the descriptions that follow.

- a. The student exhibits an inability to learn, which cannot be explained by intellectual, sensory or health factors.**

This characteristic requires documentation that a student is **not learning despite appropriate instructional strategies, tiered or targeted interventions and/or support services**. There are problems inherent in the use of the phrase "inability to learn" as found in both the federal and state regulations. "Inability to learn" is inconsistent with a philosophy that all children can be characterized as learners. Therefore, the characteristic, "inability to learn" is appropriately interpreted as significant difficulty in learning despite targeted, intense intervention as outlined in the SRBI Framework and should be determined only after consideration of cultural, social and linguistic influences on student performance. A comprehensive and differential assessment is performed to establish an "inability to learn." The assessment should provide information that would allow the PPT to rule out any other primary reasons for the suspected disability, such as intellectual disability, speech and language disorder, autism, a learning disability, hearing/vision impairment, multihandicapping conditions, traumatic brain injury, neurological impairment or other medical conditions. If any one of these other conditions is the primary cause, then the student may be deemed eligible for special education under that category of disability. Such a determination does not necessarily rule out emotional disturbance as a concomitant disability, since emotional and behavioral problems may also be associated with one of the above conditions.

- b. The student exhibits an inability to build or maintain satisfactory relationships with peers and teachers.**

This characteristic requires documentation that the student is unable to initiate or to maintain satisfactory interpersonal relationships with peers and teachers. Satisfactory relationships include the ability to demonstrate sympathy, warmth and empathy toward others; establish and maintain friendships; be constructively assertive; and work and play independently at developmentally appropriate levels. These abilities should be considered when observing the student's interactions with both peers and teachers. This characteristic does not refer to the student who has conflict with only one teacher or with certain peers. Rather it is a pervasive inability to develop relationships with others across settings and situations. Examples of student characteristics include but are not limited to:

- physical or verbal aggression when others approach him or her;
- lack of affect or disorganized/distorted emotions toward others;
- demands for constant attention from others; and
- withdrawal from all social interactions.

c. The student exhibits inappropriate types of behavior or feelings under normal circumstances.

This characteristic requires documentation that the student's inappropriate behavior or feelings differ significantly from expectations for the student's age, gender and culture across different environments. Examples of behavior or feelings that might be inappropriate under normal circumstances include but are not limited to:

- limited or excessive self-control;
- low frustration tolerance, emotional overreactions and impulsivity;
- limited premeditation or planning;
- limited ability to predict consequences of behavior;
- rapid changes in behavior or mood;
- antisocial behaviors;
- excessive dependence and over-closeness and/or inappropriate rebellion and defiance;
and
- low self-esteem and or/distorted self-concept.

Once it is established that the inappropriate behaviors and emotions are significantly different, it must also be determined that they are due to an emotional condition. The condition is documented by a comprehensive assessment. The PPT must determine whether the student's inappropriate responses that are occurring "under normal circumstances." When considering "normal circumstances," the PPT should take into account whether a student's home or school situation is disrupted by stress, recent changes or unexpected events. Such evidence, however, does not preclude an eligibility determination.

d. The student exhibits a general pervasive mood of unhappiness or depression.

This characteristic requires documentation that the student's unhappiness or depression is occurring across most, if not all, of the student's life situations. The student must demonstrate a consistent pattern of depression or unhappiness in keeping with the criterion, "long period of time" (i.e., several months). This pattern is not a temporary response to situational factors or to a medical condition. Examples of typical characteristics associated with depression or unhappiness include but are not limited to:

- depressed or irritable mood most of the time (e.g., feeling sad, appearing tearful);
- diminished interest or pleasure in daily activities;
- significant and unexpected changes in weight or appetite;

- insomnia or hypersomnia nearly every day;
- fatigue or diminished energy nearly every day;
- feelings of worthlessness or excessive or inappropriate guilt;
- diminished ability to think or concentrate or indecisiveness nearly every day; and
- recurrent thoughts of death or suicidal ideation (Diagnostic and Statistical Manual of the American Psychiatric Association, IV Edition, Text Revision [DSM IV-TR] DSM IV TR 2000).

Characteristics of mood disorders are outlined in the DSM IV- TR and may be used by appropriate personnel within the school setting as a resource but only by qualified licensed professionals (e.g., licensed psychologist or licensed clinical social worker) for the purpose of diagnosis and treatment of people with various mental disorders.

A DSM IV-TR diagnosis of a mental disorder is not required for special education eligibility under IDEA; therefore, eligibility for special education under ED should not be contingent on meeting such diagnostic criteria. In addition, the characteristics should not be a secondary manifestation attributable to substance abuse, medication or a general medical condition (e.g., hypothyroidism). The characteristics cannot be the effect of normal bereavement.

- e. **The student exhibits a tendency to develop physical symptoms or fears associated with personal or school problems.**

This characteristic requires documentation that the student exhibits physical symptoms or fears associated with personal or school life. Examples of these characteristics include but are not limited to:

- headaches;
- gastrointestinal problems;
- cardiopulmonary symptoms;
- incapacitating feelings of anxiety often accompanied by trembling, hyperventilating and/or dizziness
- panic attacks characterized by physical symptoms, for example, when an object, activity, individual or situation cannot be avoided or is confronted;
- persistent and irrational fears of particular objects or situations; and
- intense fears or irrational thoughts related to separation from parents.

Physical symptoms that qualify under the ED characteristic should adhere to the following four conditions:

8. symptoms suggesting physical disorders are present with no demonstrable medical findings;
9. positive evidence or **strong** presumption exists that these symptoms are linked to psychological factors/conflict;
10. lack of evidence that the person is not conscious of intentionally producing the symptoms; and
11. the symptoms are not a culturally sanctioned response pattern.

Note: Culturally sanctioned responses are particular symptoms and social responses influenced by cultural factors and often demonstrated within specific cultural settings or environments.

Qualifying Conditions or Limiting Criteria

Question 2: Is the student's educational performance adversely affected?

As a necessary condition to determining special education eligibility for a student with an emotional disability, the PPT must determine that educational performance is adversely affected as a result of dysfunctional school-related behaviors and/or affective reactions. Evidence must exist that supports a relationship between the student's school-related behaviors and/or affective relations and decreased educational performance. While adverse effect on educational performance may imply a marked difference between the student's academic performance and reasonable (not optimal) expectations of performance, the definition of education performance cannot be limited to academics. This position is clarified by the Office of Special Education Programs (OSEP) in a March 8, 2007, *Letter to Clark*, 48 IDELR 77 where "educational performance" as used in the IDEA and its implementing regulations is defined as not limited to academic performance. Furthermore, based upon the IDEA definitions of a child with a disability in 34 C.F.R. Section 300.8(a)(1) and specifically the definition of a child with an emotional disturbance, along with the definition of special education found in 34 C.F.R. Section 300.39, it is clear that special education and specialized instruction encompass more than only academic instruction. Adverse effect on educational performance cannot, therefore, be based solely on discrepancies in age or grade level performance in academic subject areas. Rather, when determining if a student's emotional disturbance has an adverse effect on educational performance, PPTs must consider all aspects of the child's functioning at school, including academic, social/emotional, cognitive, communication, vocational and independent living skills. An adverse effect can be manifested through behavioral difficulties at school; impaired or inappropriate social relations; impaired work skills, such as being disorganized, tardy; having trouble getting to school on time; and difficulty with following the rules.

Indicators of educational performance can include present and past grades, report cards and reports of progress (social emotional and/or academic), achievement test scores and measures of ongoing classroom performance such as **curriculum-based** assessment (formative and summative assessments),

work samples and data relative to responses to tiered and targeted interventions. The appropriateness of the school district's educational goals, as reflected in the curriculum and in the formal grading reports, should also be considered. Various types of standards must be applied when making judgments about student progress to determine what constitutes adverse effect on educational performance. The student's overall performance should demonstrate a marked difference between actual and expected school performance. While determining a student's cognitive abilities and level of academic achievement may be useful, the focus should be placed on the student's overall performance in school and his or her response to interventions as illustrated in the data resulting from progress monitoring activities. Some students attain adequate achievement test scores, but do not demonstrate appropriate academic progress; for example, when a severe and chronic pattern of failing to persevere with tasks and complete classroom assignments leads to repeated failure in subject matter courses. In this case, the student's resulting failure in subject matter courses can be considered an adverse effect. However, it must also be noted, that 34 C.F.R. Section 300.101(c) states that a free and appropriate public education (FAPE), must be available to any child with a disability who needs special education and related services, even if the child has not failed or been retained in a course or grade and is advancing from grade to grade. Therefore, as is the case for any student with a disability, the determination of whether a student's emotional status "adversely affects educational performance" must be made on a case by case basis and is dependent on the unique needs of the particular child (March 8, 2007, *Letter to Clark*, 48 IDELR 77).

The documentation of adversely affected educational performance must also substantiate that the educational deficiencies persist over time in spite of specific alternative strategies that have been provided within the general education setting. The PPT should have evidence that tiered interventions, such as positive behavioral supports, home/school collaboration, attendance/counseling/academic supports, behavioral and emotional supports, contracts and/or established behavior interventions and approaches, have been implemented with fidelity. (See section 6, *Empirically Supported Prevention and Intervention Strategies*, for suggested tiered interventions.) Evidence of these efforts and their impact should be considered by the PPT in determining adverse educational performance.

Special Considerations

A Note Regarding Serious Psychiatric Disorders: Schizophrenia

The reference to schizophrenia is included in the federal definition of ED for the purpose of illustrating one example of a psychiatric (medical) diagnosis of a serious emotional disorder. The DSM IV-TR provides diagnostic criteria ordinarily used by a psychiatrist or other mental health professionals. Such a psychiatric disorder is considered supportive having one of the defining characteristics of ED. However, a student

diagnosed with schizophrenia or a comparable serious psychiatric disorder is eligible for special education and related services under Connecticut law and IDEA *only* if the ED definition criteria are met.

When the PPT has a physician's diagnosis of schizophrenia or a comparable serious emotional disorder, the PPT may conduct additional assessments and evaluations and answer the following two questions:

1. Is the student's educational performance adversely affected?
2. Has the student been exhibiting the condition for a long period of time and to a marked degree?

A Note Regarding Students with Social Maladjustment

The Connecticut definition of ED specifies that students who are socially maladjusted do not qualify for special education unless they are also emotionally disturbed. Certain characteristics (e.g., "inability to build or maintain satisfactory interpersonal relationships with peers and teachers" and "inappropriate types of behavior or feelings under normal circumstances") may be consistent with both social maladjustment and emotional disturbance. In these cases, the qualifying conditions or limiting criteria for ED (long period of time, marked degree and adverse effect on educational performance) must be rigorously applied to prevent the misidentification of students.

There is much debate over the existence of discrete categories for social maladjustment and emotional disturbance and research continues to support great overlap in the characteristics associated with both. Therefore, strategies that incorporate best practice regarding the assessment of students' social and emotional functioning will be crucial in defining those categories as distinguished in IDEA, when making appropriate eligibility decisions. The literature provides some guidance in defining characteristics of social maladjustment versus emotional disturbance as presented within the IDEA. The preponderance of the research though fails to provide empirical or technical evidence differentiating the two as distinct categories and contributes to the need for thoughtful reflection when determining eligibility. A child who demonstrates social maladjustment characteristics solely, should not be identified as ED. However, a child with social maladjustment characteristics should not be precluded from being identified as ED if that child meets the ED criteria as well.

Best practice suggests that PPTs focus on criteria provided in IDEA when assessing for the characteristics of ED. If the child exhibits one or more of the five characteristics outlined in the definition of ED, plus all three qualifying conditions, then the student can be considered to have an emotional disturbance (assuming other possible explanations have been considered). "Once ED criteria are met any evidence of social maladjustment is irrelevant for purposes of determining eligibility for special education" (McConaughy and Ritter, 2008). However, information and data related to the child's behavioral

characteristics and any indication of social maladjustment needs to inform the development of an appropriate IEP.

A Note Regarding the Identification of Students with a Prior Hospitalization

In December 1984, the CSDE issued a policy directive indicating that the local board of education remains responsible for a student's education when he or she is placed in a hospital due to emergency medical and/or psychiatric reasons. One unintended outcome of this policy has been that many students admitted to psychiatric hospitals have been automatically classified by the PPT as students with ED and eligible for special education by virtue of their hospitalization. Some students who have received a Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) diagnosis, in fact, may not meet eligibility criteria for special education.

Frequently, students enter a psychiatric hospital without previously having been identified as eligible for special education and related services. A referral subsequent to such a placement is made to the school district by the student's parents or by hospital personnel. The district is then obligated to consider whether an evaluation is warranted under the circumstances to determine whether the child is eligible for special education. The rights and procedures for evaluating the educational needs of a hospitalized student suspected of being eligible for special education are the same as for a student referred for evaluation within the school setting. When provided, results of evaluations conducted by a psychiatric hospital must be considered and may be accepted by the PPT; however, the PPT assumes the responsibility of ensuring that the evaluation meets the standards for identifying any student suspected of having a disability. The standards to be adhered to are (1) multiple sources of information and (2) valid measures addressing all areas related to the suspected disability. Given the requirement to consider all areas of the definition, an evaluation to determine a condition of ED will require the same type of data concerning the student's emotional/behavioral status, intellectual/developmental functioning and educational progress.

Often these students return to the school district following a short-term hospital stay (frequently less than three weeks) with a physician's recommendation for special education services. The school system's PPT should regard this as a referral for an eligibility determination and a decision must be made by the PPT to conduct an evaluation or to try alternative strategies within the general education setting. Before implementing a comprehensive assessment, it is important to consider whether the student's previous general education program can adequately address the student's current social and emotional needs. One option as part of a comprehensive assessment is to use a trial special education placement for diagnostic purposes. A diagnostic special education placement is a structured program of, not more than eight weeks duration, that can be used to assess the needs of the student for whom an IEP may be needed (see Connecticut Regulations Concerning Children Requiring Special Education, Section 10-76d-14[b], for a

description of trial placement for diagnostic purposes and the procedural requirements that must be followed). This option is typically selected when the evaluation study is inconclusive or the data insufficient to determine the student's eligibility and needs. It should be noted, however, that if there is a dispute regarding the student's eligibility, program or placement at the conclusion of the diagnostic placement and due process is initiated, the diagnostic placement is not considered the "stay put" placement for the student pending due process unless the PPT and the parents so agree.

A student with a prior hospitalization is protected under the provisions of Section 504 of the Rehabilitation Act of 1973 to determine what might be done with regard to special accommodations or related services for the student to participate in the school program. Under the provisions of Section 504, the district must assess the student's needs for such services. Protection under Section 504 also includes a FAPE and reasonable accommodations along with a plan for the delivery of services.

A Note on Section 504

Section 504 of the Rehabilitation Act or "504" is a civil rights law that provides protections to individuals with disabilities from discrimination. The purpose of Section 504 of the Rehabilitation Act is "to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence and inclusion and integration into society" (29 United States Code [U.S.C.] Chapter 16 Section 701 [b] [1]). Section 504 of the Rehabilitation Act entitles a child to a FAPE. A FAPE is defined as "the provision of regular or special education and related aids and services that 'are designed to meet individual educational needs of persons with disabilities as adequately as the needs of persons without disabilities are met'" (34 C.F.R. Section 104.33[b] [1]). Provision of FAPE may require that a student with a disability receive specialized instruction and related services under the protection of the IDEA, which provides an IEP and additional procedural safeguards, while also protecting that student from discrimination. For a child to meet eligibility for special education and related services under the IDEA, the child's disability must adversely affect educational performance. If this qualifying condition is not met, the child will not be eligible for special education and related services under the IDEA but may be eligible for protections under Section 504 of the Rehabilitation Act. Eligibility under 504 requires that a child have a physical or mental impairment that substantially limits at least one major life activity, which includes walking, seeing, hearing, speaking, breathing, learning, reading, writing, performing math calculations, working, caring for oneself and performing manual tasks. The defining criterion is that the student has an "impairment" that substantially limits 'one or more' major life activities."

A student found eligible under 504 may receive accommodations and modifications to the general education setting or program that are not otherwise available to children who are not disabled. The school district may develop a 504 Plan that describes the appropriate accommodations and/or modification, which

are necessary to provide the student with a disability a FAPE. Best practice indicates that school districts document necessary accommodations and modifications in a written 504 Plan. Parents are encouraged to request a written 504 Plan that outlines the appropriate accommodations and modifications.

Qualification for protection under Section 504 allows a student with a documented disability to obtain necessary accommodations and/or services in a postsecondary education, employment or adult service setting and can facilitate a smooth transition. ED is an educational disability category defined in the IDEA and is not a medical or mental health diagnosis. A student eligible for special education under the IDEA due to an ED does not qualify under 504, based solely on this special education eligibility determination, in a post high school setting. Eligibility under 504 requires documentation of a physical or mental impairment that substantially limits one or more major life activities. In discussing the transition needs of a student with an emotional/psychological disability, the PPT may wish to pursue documentation of a substantial impairment, on a case-by-case basis, by obtaining an appropriate medical/mental health diagnosis in order to identify the accommodations and services a student might need under Section 504 while in a post-high school setting. In many postsecondary settings, 504 accommodations for students with an emotional/psychological disability are determined and implemented following a complete diagnostic evaluation by a licensed medical or mental health professional, such as a psychiatrist, neurologist and psychologist. The diagnostic report should include a complete diagnosis and should identify the learning areas impaired by the disability.

A Note on Cultural Considerations in the Identification of Students with Emotional Disturbance

The disproportionate representation of culturally and linguistically diverse students in special education has been a concern for over three decades (Artiles, Trent, and Palmer, 2004; Donovan and Cross, 2002; Dunn, 1968; National Education Association, 2007). These inequities can be found at every level of service delivery as evidenced by academic achievement gaps, disparities in suspension and expulsion, as well as disproportionate identification in special education. The impact of racial and economic inequity is of particular concern with regard to the misidentification of students with ED and the programs/services offered to these students.

Disproportionality in special education has been described as "the extent to which membership in a given group affects the probability of being placed in a specific special education disability category" (Oswald and Coutinho, 2001). Disproportionality may manifest as both overrepresentation and underrepresentation of certain groups within a specific category. In Connecticut, a relative index or risk ratio is used to represent possible overrepresentation of students. The risk ratio has been defined by Gamm (2010) as, "How many more times one racial/ethnic group is more/less likely to be found eligible for services than

others." A risk ratio of 1 represents perfect proportionality. Generally, a risk ratio that is between 0.50 and 1.5 is considered to be proportionate. Those that are less than 0.25 or higher than 2 are problematic (Gamm, 2010).

IDEA legislation requires states to collect and examine data on significant disproportionality for purposes of the identification of students in specific disability categories, as well as the education placement decisions made on their behalf based on race and ethnicity, at the state and district level. Additionally, both the states and local school districts must address the disproportionate representation of racial/ethnic groups in special education (IDEA 2004). Excerpts from findings in the IDEA 2004's statute note that greater efforts are needed to prevent the problems connected with misidentifying "minority" children and limited English proficient children as having a disability.

Nationally, the overrepresentation of African American students receiving special education has been a consistent concern for nearly four decades (Gamm, 2010). African American students are at a particular risk for disproportionate representation in the ED category and are identified as having mental retardation and ED at rates greater than their white counterparts (Gamm, 2010). Nationwide, African American and Native American children are 1.92 and 2 times (respectively) more likely to be labeled ED than white children (National Research Council, 2002). The U.S. Department of Education (2000) reports that, although African American children account for 14.8 percent of the school age population, they account for 26 percent of all the students classified as ED. In addition, more students of color continue to receive services in special education than would be expected based on the percentage of students of color in the general school population. Studies have found that schools with predominantly white students and teachers have disproportionately identified high numbers of students of color in need of special education services. The implication of overrepresentation of students of color in the ED category is directly related to the overrepresentation of African Americans and Latinos in the judicial system at both the juvenile and adult correctional levels. African American adolescents with a mental health concern are referred to the juvenile justice system more than white adolescents (Cauce, 2002). Of particular concern is that race seems to play a role in the determination of whether an individual is referred for intervention versus disciplinary action for exhibiting similar difficult behaviors.

Similar levels of risk have been found in Connecticut. According to 2009-10 state level data, African American children have a relative risk index of 1.8 for serious ED (SED)(CTSD, 2010). Interestingly, there is some variability at the district level with a few districts reporting overrepresentation of white students for this category. However, there is some suggestion that overidentification for white students may not have the same negative impact as it does for students of color (Cauce, 2002). An additional concern is the underrepresentation of some groups. According to CSDE's 2009-10 data on disproportionality, Asian students are four times (relative risk index, -4.00) less likely to be identified as a student with an emotional disturbance. There is a tendency to focus on externalizing behaviors rather than internalizing behavior, which may influence the over-representation of African American students and males as well as the

underrepresentation of Asian Americans and females in this category. Given both the overrepresentation of some student groups identified as ED and the disparity in the outcomes for students, eligibility due to ED should be used with caution. The identification of students with ED is particularly problematic and lends itself to racial and other biases given both the ambiguity of the federal definition and the subjectivity of the assessment process. Critical features of identification may be further influenced by the impact of the teacher-student relationship, for example, who is referred and what behavior is considered most problematic. In her ethnographic study-examining role of race, class and family, Lareau (2003) documents the potential chasm between the cultural and behavioral expectations of American teachers and their students of color. Cultural incongruence between teachers and their students may result in inappropriate referrals and should be carefully examined.

A Note on Linguistic Considerations in the Identification of Students with Emotional Disturbance

Data supports the fact that linguistically diverse students (i.e., ELLs) are often overrepresented in special education programs. For certain subgroups of culturally and linguistically diverse populations, overrepresentation is present at higher rates in specific categories such as intellectually disabled or emotionally disturbed (NEA, 2008).

The IDEA requires that in conducting any evaluation (initial or reevaluation), the local education agency (LEA) must ensure that evaluation materials are selected and administered to not be discriminatory or racially or culturally biased. Evaluations must be administered in the student's native language or other mode of communication in a form most likely to yield accurate information related to what the child knows and can do academically, developmentally and functionally (34 C.F.R. Section 300.304 [c] [i] [ii]). Additionally it is necessary that those administering assessments are trained and knowledgeable (34 C.F.R. Section 300.34 [c] [iv]). The IDEA also states that upon completion of evaluation, a child must not be determined to have a disability, if, among other qualifiers, the determinant factor is limited English proficiency (34 C.F.R. Section 300.306 [b] [iii]). It is essential therefore that when the PPT determines that a linguistically diverse student is at risk for an emotional disability and is considering eligibility for special education, that assessments are conducted in the student's dominant spoken language or alternative communication system. Information yielded from assessments must be considered in the context of the student's social/cultural background as well as the setting in which he or she is functioning. It is important to recognize and minimize bias when interpreters are used and to be cognizant that translated test items can change the difficulty level of the item.

When determining eligibility for special education under the category of ED, it is also critical that the PPT consider linguistic differences and cultural influences in the analysis and interpretation of student behavior.

This is especially true in the case of young ELLs who may demonstrate school behaviors such as playing in isolation, not speaking in either language, having trouble with following directions, expressing ideas and feelings, responding to questions consistently and experiencing crying and tantrum behaviors. Such behaviors may be misinterpreted or mislabeled as emotional or behavioral problems when in fact such behaviors are common to the typical developmental stages related to acquiring a new language. It is therefore critical that PPT members and decision makers have an understanding of the acquisition of a new language and that the information considered by the team is gathered from a variety of sources. This ensures accurate information about the linguistically diverse student's cultural and family background, knowledge and developmental, functional and academic levels. Such an understanding of the individual student will enable teams to distinguish between behaviors associated with second language acquisition and those that might be indicative of an emotional or behavioral disability (Santos, R.M. and Ostrosky, M.M.).

Planning and Placement Team Worksheet to Determine Eligibility for Special Education Due to an Emotional Disturbance

This summary of assessment findings is to be completed by the Planning and Placement Team (PPT) in accordance with procedures defined in the "ED Definition Criteria" section of the *Guidelines for Identifying and Educating Students with Emotional Disturbance*. Attach this completed form to the assessment records.

1. Alternative Strategies Prior to Referral

Document practices, strategies, supports and interventions implemented at each level as appropriate:

UNIVERSAL: _____

TARGETED: _____

INTENSIVE: _____

Sources of Evidence:

Have alternative strategies been attempted and found inadequate to address the student's areas of need? Yes No

2. Characteristics and Limiting Criteria

- Characteristic has been exhibited over a long period of time (duration). Yes No
- Characteristic has been exhibited to a marked degree (i.e., significantly greater frequency and/or intensity than seen in peer group). Yes No
- Characteristic has an adverse effect on educational performance. Yes No

Characteristics	Limiting Criteria		
Check all that apply (student must manifest at least one characteristic).	Long Time	Marked Degree	Adverse Effect on Educational Performance
a. Inability to learn which cannot be explained by intellectual, sensory or other health factors.			
b. Inability to build or maintain satisfactory interpersonal relationships with peers and teachers.			
d. Inappropriate types of behavior or feelings under normal circumstances.			
e. A general pervasive mood of unhappiness or depression.			
f. A tendency to develop physical symptoms or fears associated with personal or school problems.			

Characteristics:

At least one characteristic has been checked. Yes No

All three limiting criteria have been checked for at least one characteristic. Yes No

All three limiting criteria must be checked for at least one characteristic to qualify for special education eligibility as a student with ED.

Sources of Evidence for the Characteristic(s) and Limiting Criteria:

Social Maladjustment and Emotional Disturbance

If the student exhibits social maladjustment, does he or she also demonstrate the condition of emotional disturbance? (Refer to the Section 2, page 25, "A Note Regarding Students with Social Maladjustment" in the *Guidelines for Identifying and Educating Students with Emotional Disturbance* [2011]) Yes No N/A

**If "No," the student does not meet the requirements for this criterion.*

3. Elimination of Other Possible Causes

Are any of the following considered primary causes of educational and behavioral problems?

- temporary situational stressors Yes No
- intellectual impairment Yes No
- learning disabilities Yes No
- medical problems Yes No
- environmental stressors Yes No

If all other possible causes are checked "No," the student meets the requirements for this criterion.

4. Social, Cultural and Linguistic Considerations

Has the team considered the following in the analysis and interpretation of data and ruled out each factor as having a significant influence on the emotional and behavioral functioning of the student?

- social characteristics and influences Yes No
- cultural characteristics and influences Yes No
- linguistic characteristics and influences Yes No

"Yes" must be checked for each poof the above to rule out the possibility that other factors the student's behavior or emotional status.

Sources of Evidence :

Conclusion

Does the PPT conclude that the student meets the criteria for having an emotional disturbance as defined in Connecticut statutes? Yes No

Note: Best practice suggests that dissenting opinions be documented in the IEP, Prior Written Notice, and may be indicated in notes or minutes of the PPT meeting.

Planning & Placement Team

Meetings

At a Glance

Pupil Services

Westport Public Schools

And

The Westport PTA Council Special Education Parent Representatives (SpEd Parents) mission is to work with the WPS district to develop a partnership between the professional staff, parents and students to identify, build consensus and implement the best educational practices which result in increased student learning. The goal of SpEd Parents is to transmit information, in both directions, between the special education parent body and the school administration.

Please sign up for our e-mails at spedparents@westport.k12.ct.us



Pupil Services

A Parents' Guide

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Introduction

“We are here for You”

This outline describing the **Planning and Placement Team (PPT) Meeting** process has been developed for you by the Westport PTA Special Education Committee known as **SpEd Parents**. We are your representatives from each school building and out-placed programs who work to bring your concerns forward to the administration and to communicate initiatives and policy back to you.

We know that parents often find themselves overwhelmed by the formality of the PPT process. Based on feedback from parents and our own varied experiences, we have created this outline as a means to demystify the PPT process. Our goal is to help parent team members participate comfortably in the PPT process as full and equal partners in the preparation, discussions, and decision-making process regarding your child’s educational program.

Together with the ***Parent Handbook for Special Education in Westport*** (available in your school office), this outline should provide you with the information and tools you need to begin effective advocacy for your child.

Parent Handbook Notes

What is a Planning and Placement Team (PPT) meeting?

- A Planning and Placement Team (PPT) reviews referrals to special education, determines if your child needs to be evaluated, decides which evaluations will be given to your child and determines whether your child is eligible for special education services. The team includes a school administrator or designee, regular education teacher, special education teacher, school psychologist and you. The school personnel may vary depending on your child's needs. Parents are important and equal members of the team and are encouraged to be part of the decision-making process.

- Parents are welcome to invite who they feel they would like to be a part of their child's team. This may include, but is not limited to, friends or family members, an outside professional who knows your child or an advocate. If you are inviting someone who is not listed on your invitation, please inform the school in advance. (If English is not your primary language you may request an interpreter to be at the meeting so that you may fully understand and participate.)

- The Planning and Placement Team (PPT) meeting will be facilitated by a school administrator or designee and all attendees will introduce themselves. The State of Connecticut Department of Education Procedural Safeguards will be available at each meeting. Your Procedural Safeguards outline the legal requirements followed by the school district and explain how to proceed if there is an unresolved disagreement between you and the school-based team. If you do not understand the document please do not hesitate to ask for an explanation of your due process rights.

- PPT meetings are legal meetings where your child's educational program is discussed and committed to by the school-based team. Your written consent is required for the school to conduct an evaluation of your child, to receive special education services and certain other unique situations. If you disagree with the information documented in the IEP you must submit your concerns in writing to the school administration. The school-

based team will convene a PPT meeting so that you may discuss your thoughts about your child's program.

- The school-based team takes minutes of the PPT meeting which will be included in the paperwork that is sent to you following the meeting. You may also take notes or record the meeting. If you plan to record the PPT meeting, you should advise the school in advance so they can be prepared as well. If you record the meeting, the school will also record the meeting.

- Your first PPT meeting is referred to as a pre-referral meeting. It will occur if school personnel feel that your child has not responded within state-mandated timelines to regular education academic supports through the Response to Intervention (RTI) process that exists in each school. (Please refer to the Westport district website for specific information regarding the RTI process.) As parents, you may also request a PPT meeting if you have concerns about your child's performance in school.

- At the pre-referral PPT meeting, the team will discuss your child's performance and review the reasons for the request to meet whether initiated by the school or the parents, and determine if an evaluation is warranted. If an evaluation is recommended, the team will outline the areas to be assessed and discuss how the team will conduct the evaluation with your child. The team is required to reconvene for an eligibility PPT meeting within 45 school days of the pre-referral PPT meeting.

- The school-based team will schedule an informal feedback session with you at least 3 days prior to the eligibility PPT meeting. The team will review the results of your child's evaluation and provide you with results of the evaluations.

- At the eligibility PPT meeting, the school-based team is responsible for determining eligibility for special education services. There are several possible designations for eligibility based on specified disability definitions. If the results of the evaluations correspond with one or more of the disability definitions and if, due to this disability your child requires special education services; your child will be eligible for these services and an individualized Educational Program (IEP) will be developed. (Please refer to

the *Parent Handbook for Special Education in Westport* on the district website or *A Parent's Guide to Special Education in Connecticut* located on the Connecticut State Department of Education website for detailed definitions of disability criteria and components of the IEP.)

What is an IEP?

- The development of the IEP is a team process intended to meet the specific needs of your child. Parents are equal partners in this process. The IEP identifies your child's needs, what will be provided to meet those needs, and what the anticipated outcomes may be. The IEP consists of a list of recommendations resulting from discussions at the meeting, present level of academic achievement and functional performance, transition planning, annual goals and objectives, program accommodations and modifications, state and district testing accommodations, specific service time and exit criteria. Each page is filled out only as it applies to your child. Each page has a specific planning and legal purpose to document the commitment of resources established during the PPT meeting.

- A PPT meeting will be held for the following reasons:

1. Annually, to discuss a child's present level of performance and determine goals and objectives for the coming year.
2. The team will conduct a re-evaluation every three years to determine the need for continued special education services.
3. If parents or the team working with your child needs to meet to discuss the IEP.
4. To discuss the results of any reports or evaluations that are submitted to or completed by the school.
5. When students transition between levels within the school system.
6. If the team is considering Extended School Year (ESY) services, which occur during the summer.

- You may request a copy of draft goals and objectives prior to the PPT meeting. The goals and objectives will be discussed and can be changed to reflect the decisions made at the meeting.

- You should provide any private evaluation reports to the school-based team for review several days in advance of the PPT meeting.

What is the PPT Meeting Notice?

- The school is required to provide you with at least five days written notice of a PPT meeting. The notice will include the date, time, and location of the meeting. You may agree in writing to waive the five-day notice requirement.
- The PPT meeting notice will also include the purpose of the meeting and individuals invited to attend. If a core team member cannot attend, the school is required to get your written permission to excuse that person. You may choose to participate in a PPT meeting over the phone if you are unable to attend. (Please refer to the *Parent Handbook for Special Education in Westport* for more detailed information.)

What will help to prepare for your PPT meeting?

- We advise that you should begin preparation for your meeting well in advance of its scheduled date. This may include collecting school work, test scores, and reports that will help create an understanding of your child's education.
- We suggest preparing a statement describing your observations and information received from staff working with your child. This can be helpful in organizing your thoughts so that you can use your PPT meeting time efficiently. Create a list of areas where you feel your child is struggling, including any academic, social or behavioral concerns. Be prepared to ask how the school can help your child. It is also helpful to share your child's strengths and interests as this information may be used when addressing areas of concern.

- You may submit this information to the team prior to the meeting or ask that it be made part of the record to be included with your IEP paperwork.

Many veteran parents of the special education system have found it useful to ask the following questions prior to every PPT meeting as a means to gather their thoughts, plan ahead and use the PPT meeting time effectively. You may use these questions to guide you while you are at a PPT meeting and if you would like, you may submit this to the school-based team prior to the meeting so they can give thought to your comments and be prepared to address them.

1. **What issues do you want addressed to enhance your child's education?**
2. **What are your child's unique characteristics, interests, significant personal attributes, and/or personal accomplishments?**
3. **What are your expectations for your child in the next year's period of time?**
4. **What are your long-term hopes and what are your child's long-term hopes?**
5. **What is your child good at? Ask your child the same question and jot it down.**

What happens after the PPT meeting?

- You will receive the IEP document that reflects a summary and decisions made at the meeting. The summary of the meeting is meant to accurately document the meeting; however, it is not meant to be a transcript of the meeting. The summary normally includes evaluation summaries, anecdotes of your child's well-being, concerns raised and other topics that directly affect programming decisions.
- If you agree with the summary and contents of the IEP you do not need to respond. The program agreed on at the meeting will be

implemented five days after you receive the IEP in the mail unless you have agreed to another time frame.

- You have the right to disagree with the documentation of the meeting or to change your mind about consent you may have provided or agreements you made. If you disagree, or think anything important was left out of the document, you must put your point of disagreement and clarification in writing to the administration of your school. Decisions made regarding programming will take effect as determined by the team.
- You will receive quarterly reports from the school charting progress on the IEP goals and objectives.
- It is important to communicate with team members on an informal basis so that you can share information with the staff who work closely with your child. Note, however, that formal changes to your child's IEP can only occur at a PPT meeting.

Tips for Developing A Positive Partnership

1. Remember that all members of the PPT are there to help your child.
2. Respect those at the table as you wish to have them respect you.
3. Try to see the “whole” child and ask that others at the table do the same. Understand that others will see the child differently and that’s alright.
4. Establish a rapport and maintain communication throughout the year with your child’s educators and service providers.
5. Get to know the district “chain of command,” PPT players and their roles and responsibilities, and who to contact for which issues.
6. Be mindful of the time limitations for the PPT meeting and be concise without rushing. Be organized and arrive on time. You do not need to know professional terminology to be effective. Use words and ideas as you understand them.
7. Present your opinions at the PPT meeting firmly, but also in a respectful manner.
8. Maintain your composure even when there is a disagreement. Remember that it is your right to disagree, so you should not feel like you have to fight for that right. Calmly and firmly state your area of disagreement and the PPT notes will reflect your opinion.
9. Accept that team members may have a differing opinion than your own but still have your child’s best interest in mind. No one is always right or wrong.
10. Avoid putting team members on the spot or consciously embarrassing them.
11. While school staff are all professional educators, they are people with feelings, too.
12. Be sure to appreciate the things that deserve to be appreciated in your child’s program.
13. Educate yourself about your child’s disability by reading and understanding all the reports and test results about your child. Read up on your child’s disability and attend workshops and conferences when they apply.
14. Learn about the significance of IDEA and 504 by accessing the State Department of Education website.
15. You do not need to feel confused at any time. You may ask for definitions and explanations at any time. Doing so will avoid miscommunication.

Important Note From SpEd Parents

While we have tried to demystify the PPT process and include all the basic information about the PPT meeting format, we know that the individual needs and situations of the children and families who receive services and support from the Westport Public School District are unique. Therefore, you may still have unanswered questions or concerns, and in some cases the answers will depend specifically on your situation. Please be sure to ask questions at your PPT meeting to clarify the answers for your specific needs and concerns.

SpEd Parents and the Westport School District encourage you to **educate yourself** by reading more about the guidelines for PPT meetings and Individualized Educational Programs (IEP). More information can be found in the **Parent Handbook for Special Education in Westport** available from your principal’s office, the Westport Public School District’s website, and the State of Connecticut Department of Education.

SPED Parent representatives are available to help you find the information you may need. Each school building has a representative, as do the students who are placed out of district. Please contact your building administrator for the names of your representatives or consult the Westport Public School District’s website for Westport PTA Council Special Education committee representatives, who are listed under Special Education. All conversations are confidential.



*Parent
Handbook for
Special
Education*



www.westport.k12.ct.us/specialed.htm

*Revised edition
2013-14*

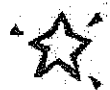


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Introduction

The stated mission of the Westport Public Schools and the Special Education Parent Representatives group is to work to develop a partnership between professional staff, parents and students to identify, build consensus, and implement the best educational practices which result in increased student learning.

This handbook has been revised by parents of children receiving special education services in consultation with staff in the Westport Public Schools. The text first references Federal and State law and regulations followed by practical applications under "Tips for Parents". It has been developed to guide parents through the educational process and assist parents in forming collaborative parent-professional relationships in the best interest of their children. It can be accessed on the web at www.westport.k12.ct.us/specialed.htm.

Handbook Developed by:
Special Education Parent Representatives of the
Westport PTA Council
ARC Youth Division
Westport Public Schools

Procedural Safeguards Notice Required Under IDEA Part B



OFFICE OF THE ATTORNEY GENERAL
STATE OF MICHIGAN

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INTRODUCTION

The individuals with Disabilities Education Improvement Act (IDEA), the federal law concerning the education of students with disabilities, requires schools to provide you, the parent, with a notice containing a full explanation of the procedural safeguards available under the IDEA and the IDEA regulations. A copy of this notice must be given to you one time each year and also when the following occurs:

- The first time you or the school district asks for an evaluation.
- You ask for a copy of these procedural safeguards.
- The first time in a school year you request a due process hearing or file a state complaint.
- A decision is made to take a disciplinary action against your child that is a change in placement.

The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under the IDEA regulations, which are the following:

34 CFR 300.148	Unilateral placement
34 CFR 300.151 through 300.153	State Complaint Procedures
34 CFR 300.9, 34 CFR 300.300	Parental Consent
34 CFR 300.502 through 300.503	Independent Educational Evaluation and Prior Written Notice
34 CFR 300.505 through 300.518	Other procedural safeguards, mediation, resolution process, impartial due process hearing
34 CFR 300.530 through 300.536	Discipline procedures
34 CFR 300.610 through 300.625	Confidentiality of information

Each section has the federal citation printed with it; where there is a state statutory or state regulatory provision that coincides with the federal requirements, the state citation is provided.

GENERAL INFORMATION

DEFINITION OF SCHOOL DISTRICT

As used in this document, "school district" means a local or regional board of education, the state Technical Schools, the school districts operated by the Department of Correction and the Department of Children and Families, and the Department of Mental Health and Addiction Services in the provision of regular and special education to eligible clients.

PRIOR WRITTEN NOTICE

34 CFR 300.503; Connecticut Regulation Section 10-76d-8

You have the right to get written notice no later than five school days after the Planning and Placement Team (PPT) meeting where the school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of your child or the provision of a free appropriate public education (FAPE) to your child. This is called prior written notice.

CONTENT OF NOTICE

The written notice must tell you:

1. exactly what the school district proposes or refuses to do;
2. why the school district proposes or refuses to take action;
3. the other options the PPT talked about and the reasons why those were not done;
4. about each evaluation procedure, assessment, record or report that the PPT used as a basis for the proposed or refused action;
5. about other factors that were relevant to the PPT's proposal or refusal;
6. that you have protections under the procedural safeguards provisions of the IDEA;
7. how you can get a copy of these procedural safeguard protections; and
8. resources for you to contact to get help in understanding the IDEA as it relates to the provision of special education and related services for your child.

NOTICE IN UNDERSTANDABLE LANGUAGE

The notice must be written in a way that would be easy to read and understand and provided in your native language or another mode of communication, unless it is clearly not possible to do so. If your native language or other means of communication is not a written language, the school district must make sure:

1. the notice is given orally or by another way to you;
2. you understand what is in the notice; and
3. there is written evidence that these two steps have been taken.

ELECTRONIC MAIL

34 CFR 300.505

if your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail: Prior Written Notice, Procedural Safeguards Notice and notices related to a due process hearing.

PARENTAL CONSENT — DEFINITION

34 CFR 300.9; Connecticut Regulation Section 10-76d-8

CONSENT MEANS:

1. You have been fully informed in your native language or another mode of communication about the action for which you are being asked to give consent;
2. You understand and agree in writing to let the school district take the action for which they are asking your consent. The consent describes this action and if school records are to be sent to someone, the school district tells you what records will be sent and to whom the records will be sent; and
3. You understand that you willingly give consent and you may withdraw your consent any time. If you wish to withdraw your consent, you must do so in writing. If the school district requests consent and you do not respond to the school district in 10 school days, the school district will take that to mean that you do not give your consent. If you withdraw your consent, the withdrawal does not affect the actions taken or the services provided to your child during the time the school district had your consent. The school district is also not required to change your child's education records to remove any reference that your child received special education and related services after you withdraw your consent.

When a child turns 18 years old, the child has all rights the parent used to have. A child will not get these rights if the court has said the child is not able to decide in a way that is good for the child. The school district shall give any notice required by the law to both the child and the parent even though the child would now have the rights that the parent used to have. When the rights pass from the parent to the child, the school district must notify the child and the parent of the transfer of rights.

PARENTAL CONSENT

34 CFR 300.300; Connecticut Regulation Section 10-76d-9

CONSENT FOR INITIAL EVALUATION

An initial evaluation (testing) is done to find out if a child is disabled and the kind and amount of special education services a child needs. Certain tests or ways of evaluating are selected for each child. These tests are not the tests that are given to all children in a school, grade or class.

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible for special education and related services without first providing you with prior written notice of the proposed evaluation and obtaining your consent as described above.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability and in need of special education and related services.

Your consent for the initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.

Your school district may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.

If your child is enrolled in public school, or you are seeking to enroll your child in a public school, and you have refused to provide consent or failed to respond to a request to provide consent for the initial evaluation of your child, your school district may, but is not required to, seek to conduct an initial evaluation of your child by using the IDEA's mediation or impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances.

SPECIAL RULES FOR INITIAL EVALUATION OF WARDS OF THE STATE

When the school district seeks to evaluate a child for the first time, and the child is in the custody of the Commissioner of Children and Families and is not residing with the child's parent, the school district is not required to get the consent from the parent to determine whether the child is disabled and in need of special education services if:

1. after reasonable efforts, the school district cannot find out where the parent is located;
2. the rights of the parent have been terminated by the court; or
3. a judge decided that the right of the parent to make decisions about the child's education is to be made by a person appointed by the court.

A ward of the state, as used in the IDEA, means a child who, as determined by the state where the child lives, is a foster child, considered a ward of the State under State law, or is in the custody of a public child welfare agency. Ward of the state does not include a foster child who has a foster parent who meets the definition of parent as used in the IDEA.

CONSENT FOR INITIAL RECEIPT OF SERVICES

Your school district must obtain your informed consent before providing special education and related services to your child for the first time.

The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

if you fail to respond or refuse to give consent for your child to receive special education and related services, or if you later withdraw your consent for your child to receive special education and related services in writing, your school district may not use the procedural safeguards (mediation or due process hearing) to reach an agreement or get a ruling that services may be provided to your child without your consent. Under these circumstances, the school district would not violate its responsibility to make available a free appropriate public education to your child and is not required to hold a PPT meeting or develop an individualized education program (IEP) for your child.

If you withdraw your consent in writing at any point after your child is first provided special education and related services, then the school district may not continue to provide such services but must provide you with Prior Written Notice before stopping the services.

CONSENT FOR REEVALUATIONS

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can show it took reasonable steps to obtain your consent for your child's reevaluation and you did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the procedural safeguards procedures (mediation or impartial due process hearing) to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

CONSENT FOR PRIVATE SCHOOL PLACEMENTS

Connecticut state regulations, Section 10-76d-8, requires school districts to obtain your consent before a child may be placed in a private school by the school district to receive special education and related services. If your child is already receiving special education and related services, and the PPT proposes a private school placement and you refuse to provide consent for the private school placement, the school district is required by Section 10-76h of the general statutes to file for due process to ensure your child is provided with a free appropriate public education. If you revoke your consent for the private school placement, the district is required by Section 10-76h to file for due process to ensure your child is provided with a free appropriate public education.

If the proposed private school placement is the first time your child is to receive special education and related services and you refuse to provide consent for special education and related services, the school district may not use the procedural safeguards (mediation or due process hearing) to override your refusal to consent to the initial provision of special education and related services. If you indicate that you agree that your child is eligible for special education and related services and should receive special education and related services but do not agree with the private school placement, the school district is required to use the procedural safeguards (mediation or due process hearing) to ensure your child receives a free appropriate public education.

If your child is attending the private school placement and you revoke consent for the private school placement but not consent for your child to receive special education and related services, the school district must use the procedural safeguards (mediation or due process hearing) to ensure your child receives

a free appropriate public education. If you revoke consent for the private school placement and revoke consent for your child to receive special education and related services, the school district may not use the procedural safeguards (mediation or due process hearing) to override the revocation of consent for your child to receive special education and related services.

The school district must develop and implement procedures to ensure that your refusal to consent to any of the services or activities listed above does not result in a failure to provide your child with a free appropriate public education. Also, your school district may not use your refusal to consent to one of these services or activities as a basis for denying any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.

DOCUMENTATION OF REASONABLE EFFORTS TO OBTAIN PARENTAL CONSENT

Anytime the school district seeks your consent, the school district must have a record of its reasonable efforts to get your permission. This record might include:

1. telephone calls tried or made and the results of those calls;
2. copies of letters sent to you and any letters you send back to the school district; and
3. visits made to your home or workplace and the results of those visits.

OTHER CONSENT REQUIREMENTS

Your consent is not needed before the school district:

1. reviews existing records of your child that the school district already has when the school district is evaluating or reevaluating your child; or
2. gives a test or other means of evaluation that is given to all children unless the school district gets permission from all parents before giving a test or other means of evaluation.

If the school district files for a due process hearing (see Due Process Procedures, page 15) to determine whether it may conduct an evaluation or place your child who is already receiving special education in a private school and the hearing officer decides in favor of the school district, the school district may evaluate or place your child in a private school without your consent. If the dispute was about whether to conduct an evaluation and you disagree with the hearing officer's decision, you may go to either State Superior Court or Federal District Court to stop the school district from evaluating your child. If the dispute was about whether to place your child in a private school and you disagree with the decision of the hearing officer, you may go to either State Superior Court or Federal District Court, or you may withdraw consent for the provision of all special education and related services to your child.

If you are home schooling your child or you have placed your child in a private school at your expense and you do not provide consent for your child to be evaluated for the first time or for reevaluation, or you fail to respond to a request to provide consent, the school district may not use the procedural safeguards (mediation or due process hearing) in order to evaluate your child without your consent. The district is not required to consider your child as eligible to receive services for parentally placed private school children if you refuse to provide consent for the initial evaluation or reevaluation of your child.

INDEPENDENT EDUCATIONAL EVALUATION (IEE)

34 CFR 300.502; Connecticut Regulations Section 10-76d-12

GENERAL

You have the right to have the school district pay for an evaluation done by a person who does not work for the school district. This is called an Independent Educational Evaluation (IEE) done at public expense. You must disagree with the evaluation of your child obtained by the school district to be able to request an IEE at public expense. "Public expense" means that the school district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to you.

The school district may ask you for the reason you object to the evaluation done by the school district. You are not required to provide an explanation of your objections to the school district. The school district may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing for a due process hearing to defend the school district's evaluation of your child.

If you request an IEE, the school district must provide you with information about where you may obtain an IEE and about the school district's criteria that apply to independent educational evaluations.

RIGHT TO AN EVALUATION AT PUBLIC EXPENSE

You have the right to an independent educational evaluation of your child at public expense if you disagree with an evaluation of your child obtained by the school district, subject to the following conditions:

1. If you request an IEE of your child at public expense, your school district must, without unnecessary delay, either: (a) file for a due process hearing to show that its evaluation of your child is appropriate; or (b) provide an IEE at public expense, unless the school district demonstrates in a due process hearing that the evaluation of your child that you obtained did not meet the school district's criteria.
2. If the hearing officer decides that the school district's evaluation is appropriate, the school district does not have to pay for the evaluation requested or arranged for by you. However, you still have the right to have an IEE done at your own expense.
3. You are entitled to only one IEE at school district expense each time the school district conducts an evaluation with which you disagree.

PARENT INITIATED EVALUATIONS

You have the right to obtain an IEE at your own expense. You may give the results of the evaluation to the school district. If you share the results of the evaluation with the school district, the school district must consider the results of the evaluation, if it meets the school district's criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education to your child and the evaluation results may be used at a due process hearing.

REQUESTS FOR EVALUATIONS BY HEARING OFFICERS

A hearing officer may ask that a child receive an IEE. The school district must pay for this evaluation.

SCHOOL DISTRICT CRITERIA

When the school district pays for an IEE, the evaluation must meet the standards for evaluation used by the school district. This includes the location where the evaluation is done and the skills of the person doing the evaluation. The school district may not set additional standards or timelines when the school district pays for the IEE. The standards of the school district must not interfere with your right to have the IEE.

CONFIDENTIALITY OF INFORMATION; ACCESS TO RECORDS

DEFINITIONS

34 CFR 300.611

As used under the heading, Confidentiality of Information:

Destruction, means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of "education record" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act [FERPA] of 1974, 20 USC 1232g).

Personally identifiable

34 CFR 300.32

Personally identifiable means information that includes:

1. your child's name, your name as the parent, or the name of another family member;
2. your child's address;
3. a personal identifier, such as your child's social security number of student number; or
4. a list of personal characteristics or other information that would make it possible to identify your child with reasonable clarity.

NOTICE TO PARENTS

34 CFR 300.612

The State Educational Agency must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. a description of the extent to which the notice is given in the native languages of the various population groups in the state; a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
2. a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
3. a description of all the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act and its implementing regulations in 34 CFR Part 99.

Before any major activity to identify, locate, or evaluate children in need of special education and related services (also known as "child find"), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of these activities.

ACCESS RIGHTS

34 CFR 300.613; Connecticut Regulations Section 10-76d-18

The school district must allow you to:

inspect and review all education records kept or used by the school district that are collected, maintained, or used by your school district under Part B of IDEA. This means you have the right to review and inspect all education records concerning the identification of your child as a child eligible for special education, evaluation of your child to determine eligibility for special education, the educational placement of your child or your child's right to a free appropriate public education.

The school district may take for granted that you have the right to inspect and review records unless the school district has been told that you do not have this right according to state law governing guardianship, separation and divorce.

Section 10-76d-18 of the Connecticut regulations requires that the school district allow you to inspect educational records no later than 10 school days after you request to do so and within three school days if it is to prepare for a PPT meeting about your child's IEP or any due process hearing (including a resolution meeting or a due process hearing regarding discipline). In addition, if you make a request to review and inspect your child's educational records when school is not in session, the school district must make the records available for inspection within a reasonable period of time, but no more than 45 calendar days after it has received your request. This is a requirement under the Family Educational Rights and Privacy Act, which school districts are required to follow even though there is a different state standard based on school days.

The school district must, in spite of the timelines noted above, comply with your request as soon as possible and before any PPT meeting, resolution meeting, or hearing (including a hearing about discipline).

Your right to inspect and review the education records includes:

1. your right to get a response from the school district to your reasonable requests for explanations and interpretations of the records;
2. your right to receive one free copy of the records. This is a right guaranteed by Section 10-76d-18 of the Connecticut regulations. You must ask for a free copy in writing. The school district has five school days to provide you with a copy of the requested records. The school district may charge for additional copies; however, the school district may not charge you for the additional copies if doing so would interfere with your right to review and inspect your child's records; and
3. your right to have a person acting for you inspect and review the records.

RECORD OF ACCESS

34 CFR 300.614

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

RECORDS ON MORE THAN ONE CHILD

34 CFR 300.615

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

LIST OF TYPES AND LOCATIONS OF INFORMATION

34 CFR 300.616

On request, your school district must provide you with a list of the types and locations of education records collected, maintained, or used by the district.

FEES

34 CFR 300.617

The school district may not charge a fee to look for records.

AMENDMENT OF RECORDS AT PARENT'S REQUEST

34 CFR 300.618

If you believe that information in the education records regarding your child, collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request that the school district change the records. The school district must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request. If the school district refuses to change the information as you have requested, the district must inform you of this refusal and advise you of your right to a hearing to challenge the content of the record (see below).

CHALLENGING THE CONTENT OF THE RECORD, OPPORTUNITY FOR A HEARING

34 CFR 300.619

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

HEARING PROCEDURES

34 CFR 300.621

A hearing to challenge information in your child's education records must be conducted according to the procedures for this hearing found in the Family Educational Rights and Privacy Act, the federal law that addresses access to educational records.

RESULT OF HEARING

34 CFR 300.620

If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the school district. The explanation placed in the records of your child must:

1. be maintained by the school district as part of the records of your child as long as the record or contested portion is maintained by the school district; and
2. if the school district discloses the records of your child or the challenged information to any party, the explanation must also be disclosed to that party.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

34 CFR 300.622

Unless the information is contained in education records, and the disclosure is authorized without your consent under the Family Educational Rights and Privacy Act, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of other agencies that participate in Part B of IDEA. Except under the circumstances described below, your consent is not required before personally identifiable information is released to officials of other agencies that participate in Part B of IDEA for purposes of meeting a requirement of Part B of IDEA.

Your consent or consent of an eligible child who has reached the age of majority under state law must be obtained before personally identifiable information is released to officials of other agencies that participate in Part B of IDEA providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

SAFEGUARDS

34 CFR 300.623

Each school district must protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

One official at each school district must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures regarding confidentiality under Part B of IDEA and the Family Educational Rights and Privacy Act.

Each school district must maintain for public inspection a current listing of the names and positions of those employees who may have access to personally identifiable information.

DESTRUCTION OF INFORMATION

34 CFR 300.624

Your school district must inform you when personally identifiable information collected, maintained, or used under Part B of IDEA is no longer needed to provide educational services to your child. In Connecticut, school districts are required to maintain special education records for six years after the records are no longer needed to provide educational services to your child (i.e., graduation, exiting from special education, and transfer to another school district or private school). After this time period has elapsed, the school district must destroy your child's information if you request them to do so. A permanent record of your child's name, address, phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitation.

STATE COMPLAINT PROCEDURES

DIFFERENCES BETWEEN STATE ADMINISTRATIVE COMPLAINTS AND DUE PROCESS HEARINGS

The regulations for Part B of IDEA have different procedures for state administrative complaints and for due process hearings. As explained in greater detail below, any individual or organization may file a state complaint alleging a violation of any Part B requirement or any state statute or regulations relating to the provision of special education to eligible children by a school district; the Connecticut State Department of Education (CSDE) or any other public agency responsible for providing services under state statutes or regulations regarding the provision of special education and related services.

Only you or a school district may file for a due process hearing on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education to the child.

An investigation of a state administrative complaint must be completed within a 60-calendar-day timeline unless the timeline is properly extended. An impartial hearing officer must conduct a due process hearing (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar days after the end of the resolution period, unless the hearing officer grants a specific extension of the timeline at your request or the school district's request.

The state administrative complaint and due process resolution and hearing procedures are described more fully below. The CSDE has developed model forms to help you file for a due process hearing and help you or other parties to file a state complaint. You may access this information on the CSDE Web site at www.sde.ct.gov. Under Quicklinks, click onto Special Education; scroll down to Legal/Due Process and look for the forms for Administrative Complaint, Mediation, Hearing and Advisory Opinion.

STATE ADMINISTRATIVE COMPLAINT PROCEDURES

34 CFR 300.151; *Complaint Resolution Process*

GENERAL

The CSDE has a written procedure for resolving any complaint, including a complaint filed by an organization or an individual from another state, and has a procedure for the filing of a complaint with the CSDE. The state complaint procedures are available on the CSDE Web site as indicated above (www.sde.ct.gov). Under Quicklinks, click onto Special Education; scroll down to Legal/Due Process and look for Complaint Resolution Process). If in its investigation of the complaint, the CSDE finds that a school district has failed to provide appropriate services, the CSDE must address:

1. the failure of the school district to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and
2. appropriate future provision of services for all children with disabilities.

STATE COMPLAINT PROCEDURES; TIME EXTENSION; FINAL DECISION, IMPLEMENTATION

34 CFR 300.152

The CSDE shall make and issue a decision about the issues in the complaint within 60 calendar days after the complaint is filed with the CSDE. The 60-calendar-day limit may be extended if the:

1. CSDE believes there are exceptional circumstances with respect to this complaint; or
2. complainant and the school district agree to mediation.

In making a decision, the CSDE shall:

1. carry out an on-site visit as appropriate, if the CSDE believes it must be done;
2. give the complainant a chance to give, orally or in writing, more facts about the complaint;
3. provide the school district with the opportunity to respond to the complaint, which may include:
 - a. if the school district so desires, a proposal to resolve the complaint and
 - b. an opportunity for the complainant and the school district to go to mediation.
4. review all the facts regarding the complaint and decide if the school district failed to meet the law or the regulations; and
5. send out a written decision to the complainant. The decision will rule on each issue raised in the complaint and contain the facts on which the decision was based, how the facts were related to the decision and the reasons for the decision.
6. Carry out other activities that may be appropriate to the investigation.

The carrying out of the CSDE's decision may include:

1. assistance to the school district by the CSDE;
2. talks to help the parent and the school district agree to terms to resolve the complaint; and
3. actions for the school district to take to meet the law.

STATE COMPLAINTS AND DUE PROCESS HEARINGS

You may also request a hearing even if a complaint has been filed; however, the CSDE will not look into any part of a complaint that is part of the due process hearing until the final decision of the hearing is made. Any issue in the complaint that is not part of the due process hearing must be resolved following the steps above in this section. If an issue is raised in a complaint that was already decided in a due process hearing with you and the school district, the hearing decision is final and will not be reviewed by the CSDE. The CSDE will inform the person who files the complaint that a review will not be done. If a complaint states that the school district has failed to carry out the final decision of the due process hearing, the CSDE shall resolve the complaint.

FILING A STATE ADMINISTRATIVE COMPLAINT

34 CFR 300.153; *Complaint Resolution Process*

The complaint must claim a violation that occurred not more than one year before the date that the complaint is received. An organization or a person may file a signed complaint in writing. The person or organization filing the complaint is called the complainant.

The complainant must state:

1. the school district or the CSDE or any other public agency that is responsible for providing services under Part B of IDEA or state statutes or regulations regarding the provision of special education and related services did not carry out the federal (IDEA) or the state laws that protect children who are disabled;
2. the facts on which the complaint is based; and
3. the signature and contact information for the person or organization filing the complaint.

If the complaint involves a specific child, the complainant shall include:

1. the name and address of the child;
2. the name of the school the child is attending;
3. in the case of a homeless child, the available contact information for the child and the name of the school the child is attending;
4. a description of the nature of the problem of the child, including the facts related to the problem; and
5. a proposed resolution of the problem to the extent known and available to the complainant at the time the complaint is filed.

The person or organization filing the complaint must send a copy of the complaint to the school district against whom the complaint is filed at the same time the complaint is filed with the CSDE. The mailing address for the CSDE is:

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

A model state complaint form is available on the CSDE website:

http://www.ct.gov/sde/lib/sde/PDF/DEPS/Special/Due_Process_Forms.pdf

It is not required that this form be used to file a complaint. However, please note that the information listed in the form is the information that must be provided when a complaint is filed with the CSDE.

DUE PROCESS PROCEDURES

GENERAL

34 CFR 300.507 and 300.511; Section 10-76h of the general statutes;
Sections 10-76h-1 through 10-76h-18 of the state regulations

You or the school district may file for a due process hearing on any matter relating to a proposal or refusal to initiate or change:

1. the identification of a child;
2. the evaluation of a child;
3. the educational placement of the child; or
4. the provision of a free appropriate public education to the child.

Filing for a due process hearing begins the special education administrative hearing process. You may hear the hearing process referred to as an "impartial hearing," "special education hearing," or "due process hearing."

The due process hearing request must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process hearing. This two-year limitation does not apply to you if you could not file for a due process hearing within the timeline because:

1. the school district specifically misrepresented that it had resolved the issues identified in the hearing request; or
2. the school district withheld information from you that it was required to provide you under Part B of IDEA.

For example, if you were not given a copy of the "Procedural Safeguards Notice Required under Part B of IDEA," the two-year limitation will start at the time a copy is properly given to you.

INFORMATION FOR PARENTS

The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file for a due process hearing. When you ask for a due process hearing, the school district will tell you about the use of mediation as a means to settle the issues.

FILING FOR A DUE PROCESS HEARING

34 CFR 300.508, Section 10-76h of the general statutes;
Sections 10-76h-1 through 10-76h-18 of the state regulations.

In order to request a due process hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process hearing request to the other party. As indicated above, submitting a due process hearing request means the same thing as requesting a hearing. The due process hearing request must contain all the following information and must be kept confidential.

The due process hearing request must contain the following information:

1. the child's name;
2. the address of the child's residence;
3. if the child is homeless, the available contact information for the child;
4. the name of the child's school;

5. a description of the nature of the problem relating to the proposed or refused action, including the facts related to the problem; and
6. what will resolve the problem, to the extent known and available to the complaining party (you or the school district) at the time.

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney) files a due process hearing request that includes the information listed above.

Whoever files the hearing request must also provide the CSDE with a copy of the request. Send the copy to:

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

SUFFICIENCY OF HEARING REQUEST

For a due process hearing to go forward, it must be considered sufficient. The due process hearing request will be considered sufficient (if it has the information listed above) unless the party receiving the due process hearing request (you or the school district) notifies the hearing officer and the other party in writing within 15 calendar days of receiving the request that the receiving party believes the due process hearing request does not contain the required information. The hearing officer, within five calendar days of receiving this notice, must decide if the required information has been given and immediately notify you and the school district in writing of that decision. If the receiving party does not notify the hearing officer, the request for hearing would be considered to contain the required information.

AMENDING THE DUE PROCESS HEARING REQUEST

You or the school district may make changes to the due process hearing request only if:

1. the other party approves the changes in writing and is given the chance to resolve the dispute through a resolution meeting (see page 20, Resolution Process); or
2. the hearing officer gives permission, which may only be given at any time not later than five calendar days before the hearing begins.

If the complaining party (you or the school district) makes changes to the due process hearing request, the timelines for the resolution meeting (within 15 calendar days of the school district receiving the request and the time period for resolution (within 30 calendar days of the school district receiving the complaint) start again on the date the amended hearing request is filed with the school district.

SCHOOL DISTRICT RESPONSE TO A DUE PROCESS HEARING REQUEST

If the school district has not sent prior written notice to you (see page 2, Prior Written Notice) regarding the issues noted in your request for hearing, the school district must, within 10 calendar days of receiving your request for hearing, send you a response that includes the following information:

1. an explanation of why the school district proposed to or refused to take the action raised in the due process complaint;
2. a description of other options your child's PPT talked about and the reasons those options were rejected;
3. a description of each evaluation procedure, assessment, record or report that the school district used as a basis for the proposed or refused action; and
4. a description of the other factors that were relevant to the school district's proposed or refused action.

Providing this information does not prevent the school district from claiming that the content of your due process hearing request was insufficient.

Except as provided immediately above, the party receiving a due process hearing request must, within 10 calendar days of receiving the due process hearing request, send to the other party a response that specifically addresses the issues in the due process hearing request.

MODEL FORMS

34 CFR 300.509

The CSDE has developed a model form to help you file a due process hearing request and to help you and other parties to file a state administrative complaint. However, the school district or the CSDE may not require the use of these model forms. You may use the model form or another appropriate form, so long as it contains the required information for filing for a due process hearing request or state administrative complaint. The model forms are available on the CSDE Web site at www.sde.ct.gov. Under Quicklinks, click onto Special Education; scroll down to Legal/Due Process and look for the forms for Administrative Complaint and Hearing.

DUE PROCESS HEARING PROCEDURES

34 CFR 300.517; Section 10-76h of the Connecticut General Statutes; Sections 10-76h-1 to 10-76h-18 of the Regulations of Connecticut State Agencies

General

The 45-calendar-day timeline to complete the hearing shall commence:

1. as soon as the hearing request is received by the school district or the 30-calendar-day resolution period or adjusted time period expires;
2. after the hearing officer deems the request to be sufficient (See page 17, Sufficiency of Hearing Request);
3. immediately following your notice to the hearing officer that you will not challenge the sufficiency of the hearing request; or
4. after 15 calendar days of your receipt of the school district's request for hearing if you do not challenge the sufficiency of the school district's request for hearing.

Before the start of the hearing, you and the school district will take part in a telephone call with the hearing officer. This is called a prehearing conference. During the call, you and the school district will try to work out the dispute. If possible, narrow the issues in dispute, and talk about scheduling the due process hearing.

IMPARTIAL HEARING OFFICER

The hearing will be held by a hearing officer who:

1. must not be an employee of the CSDE or the school district where the child goes to school or the school district responsible for the child's education;
2. must not have a personal or professional interest that would get in the way of his or her being fair in the hearing;
3. must be knowledgeable and understand the federal (IDEA) and state special education laws and regulations and the way these laws are understood by federal and state courts;
4. must have the knowledge and ability to conduct hearings, and be able to write decisions in accordance with appropriate, standard legal practice.

A person who would be a hearing officer is not an employee solely because he or she is paid by the CSDE to act as a hearing officer.

The CSDE, Due Process Unit, and the school district shall keep a list of the persons who serve as hearing officers. This list shall state the qualifications of each of those persons.

SUBJECT MATTER OF DUE PROCESS HEARING

The party (you or the school district) that files the due process hearing request may not raise issues at the due process hearing that were not addressed in the due process hearing request, unless the other party agrees.

TIMELINE FOR REQUESTING A HEARING; EXCEPTION

You or the school district must request a due process hearing within two years of the date you or the school district knew or should have known about the issue addressed in the hearing request. This timeline does not apply to you if you could not file the due process hearing request because:

1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your hearing request; or
2. The school district withheld information from you that it was required to provide to you under Part B of IDEA.

HEARING RIGHTS

34 CFR 300.512

General

You have the right to represent yourself at a due process hearing. In addition, any party to a due process hearing (including a hearing relating to disciplinary procedures) has the right to:

1. be accompanied and advised by an attorney or persons with special knowledge or training about the problems of children with disabilities;
2. be represented at the due process hearing by an attorney;
3. present evidence, question (confront), cross-examine and require the attendance of witnesses;
4. prohibit the introduction of any evidence at the hearing that had not been given to that party at least five business days before the hearing. Evaluations that have been completed by that date and recommendations from the evaluations that one intends to use at the hearing shall be given at least five business days before the hearing;
5. obtain a written, or at your option, electronic, word-for-word record of the hearing; and
6. obtain written, or at your option, electronic findings of fact and decisions.

Parental rights at hearings

You have the right to have your child at the hearing and to open the hearing to the public. You have the right to be provided with the record of the hearing at no cost.

You have the right to represent yourself at a due process hearing.

Additional disclosure of information

The hearing officer may prevent you or the school district from giving any evidence at the hearing without the permission of the other party if you or the school district fails to meet the above timeline regarding the submission of evidence.

At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

RESOLUTION PROCESS

34 CFR 300.510

RESOLUTION MEETING

Within 15 calendar days of getting your due process hearing request and before the due process hearing begins, the school district must convene a meeting with you and the relevant members of the PPT who have specific knowledge of the facts identified in your due process hearing request. You and the

school district determine the relevant members of the PPT to attend the meeting. The school district must have a person at the meeting who has the authority to make a decision for the school district. The school district may not bring an attorney unless you bring an attorney.

The purpose of the resolution meeting is for you to discuss your due process hearing request, and the facts that form the basis of the due process hearing request, so that the school district has the opportunity to resolve the dispute.

The resolution meeting does not have to be held if:

1. you and the school district agree in writing not to have the resolution meeting; or
2. you and the school district agree to use mediation.

RESOLUTION PERIOD

If the school district has not resolved the due process hearing request to your satisfaction within 30 calendar days of receiving the due process hearing request (during the time period for the resolution process), the due process hearing may begin except as noted below on page 18, **Adjustments to the 30-Calendar-Day Resolution Period**.

The 45-calendar-day timeline for issuing a final due process hearing decision begins at the expiration of the 30 calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Unless you and the school district both agree not to have the resolution meeting or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and the due process hearing until the resolution meeting is held.

If after making reasonable efforts and documenting those efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar-day resolution period, ask the hearing officer to dismiss your due process complaint. Documentation of the school district's efforts to obtain your participation must include a record of the school district's attempt to arrange a mutually agreed upon time and place, such as:

1. detailed records of telephone calls made or attempted and the results of those calls;
2. copies of correspondence sent to you and any responses received; and
3. detailed records of visits made to your home or place of employment and the results of those visits.

If the school district fails to hold the resolution meeting within 15 calendar days of receiving your due process complaint or fails to participate in the resolution meeting, you may ask the hearing officer to begin the 45-calendar-day due process hearing timeline.

ADJUSTMENTS TO THE 30-CALENDAR-DAY RESOLUTION PERIOD

The 30-calendar-day resolution period may be adjusted. The 45-calendar-day timeline for the hearing will start the day after one of the following events:

1. you and the school district agree in writing not to hold the resolution meeting;
2. after the mediation or resolution meeting starts but before the end of the 30-calendar-day resolution period, you and the school district agree in writing that no agreement is possible;
3. if you and the school district agree in writing to continue the mediation at the end of the 30-calendar-day resolution period, but later, you or the school district withdraws from the mediation process.

WRITTEN SETTLEMENT AGREEMENT

If at the resolution meeting you and the school district resolve the issues, you and the school district must enter into a legally binding agreement that is:

1. signed by you and a person from the school district who has the authority to make the agreement; and
2. enforceable in any state court of competent jurisdiction (a state court that has authority to hear this type of case) or in a district court of the United States.

AGREEMENT REVIEW PERIOD

You or the school district will have three business days from the signing of the agreement to change your minds and not have to go along with the agreement.

MEDIATION; SETTLING A DISPUTE WHEN THE PARENT AND THE SCHOOL DISTRICT DO NOT AGREE

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

1. the identification of the child;
2. the evaluation of the child;
3. the educational placement of the child; or
4. any other matter related to provision of a free appropriate public education to the child.

Mediation is voluntary. This means that you and the school district have a choice to use mediation to resolve the dispute. Neither you nor the school district is required to agree to use mediation. The mediation cannot be used to:

1. deny or delay your right to a hearing; or
2. deny any other rights that you have under the state or federal special education laws.

Before filing a state administrative complaint (see page 14) or before asking for a due process hearing or any time after filing a due process hearing request or during the due process hearing, you and the school district may ask for mediation by sending a letter to:

Connecticut State Department of Education
Bureau of Special Education-Due Process Unit
P.O. Box 22119
Hartford, CT 06145-2219
Fax: 860-713-7153

The Due Process Unit has a list of mediators and will assign a mediator from a rotating list who:

1. is trained in mediation;
2. does not have a conflict of interest;
3. is knowledgeable about the special education laws;
4. is an education consultant with the CSDE; and
5. does not provide direct services to the child who is the subject of the mediation.

The mediator will try to help settle the concerns of you and the school district. The mediation will be held in a timely manner and in a place that is close for you and the school district staff. The CSDE pays for the cost of the mediation process.

If you and the school district reach agreement on the issues, what you have agreed to will be put in writing and will be signed by you and the person from the school district who has the authority to sign the agreement. The mediation agreement shall state the discussions that occurred during the mediation, will remain confidential and may not be used as evidence in any subsequent due process hearing or court action that may follow the mediation. The mediation agreement is enforceable in any state court or in Federal District Court with jurisdiction over these matters.

ADVISORY OPINION PROCESS

Section 10-76h-6 of the Regulations of Connecticut State Agencies allows you and the school district to have a one-day hearing through the Advisory Opinion Process. After a hearing has been requested, you and the school district may agree to the Advisory Opinion Process by sending a letter or filling out the Advisory Opinion Process form and sending it to the Connecticut State Department of Education, Bureau of Special Education, Due Process Unit, P.O. Box 22119, Hartford, CT 06145 (Fax: 860-713-7153). The Advisory Opinion Process allows you and the school district to state your positions in a brief manner to a hearing officer in one day; there are limits on the amount of time you and the school district have to present your positions and the number of witnesses you and the school district may present. After listening to the arguments made by you and the school district, the hearing officer will tell you and the school district how the hearing officer thinks the issues would be decided if the parent and the school district went on to a full hearing. The hearing officer who does the Advisory Opinion is not the same hearing officer who would hold the full hearing. You and the school district do not have to accept the view of the hearing officer who gives the advisory opinion. You and the school district may go on to a full hearing if the issues are not settled by receiving an advisory opinion.

HEARING DECISIONS

34 CFR 300.513

DECISION OF THE HEARING OFFICER

A decision made by the hearing officer on whether your child received a free appropriate public education (FAPE) must be based on evidence and arguments that directly relate to FAPE, that is, on legal rights and principles.

In matters alleging a procedural violation (such as "an incomplete IEP"), a hearing officer may find that your child did not receive FAPE only if the procedural violations:

1. interfered with your child's right to receive FAPE;
2. significantly interfered with your opportunity to participate in the decision-making process regarding the provision of FAPE to your child; or
3. caused your child to be deprived of an educational benefit.

None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district to follow the requirements in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR 300.500 through 300.536), even if the hearing officer found that your child was not kept from receiving FAPE.

SEPARATE REQUEST FOR A DUE PROCESS HEARING

Nothing in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR 300.500 through 300.563) can be interpreted to prevent you from filing a separate due process hearing request on an issue separate from a due process hearing request already filed.

FINDINGS AND DECISION; CONVENIENCE OF HEARINGS; STATE ADVISORY COUNCIL TO RECEIVE COPY OF DECISION; DECISIONS TO BE AVAILABLE TO THE PUBLIC

Within 45 calendar days of the start of the hearing timeline, a final decision in the hearing shall be reached and a copy of the decision shall be mailed to each of the parties. The hearing officer may allow extra time beyond the 45-calendar-day timeline when asked for by you or the school district. The hearing shall be held at a time and place that would make it easy for you and your child to attend.

The CSDE shall, after taking out any data that would make the identity of the child easily known, send the written findings of fact and decisions to the State Advisory Council for Special Education and also make them available to the general public. Final decisions are available on the CSDE Web site at www.sde.ct.gov. Under Quicklinks, click onto Special Education and the hearing decisions are listed at the top of the page.

APPEALS

FINALITY OF THE DECISION; APPEAL; IMPARTIAL REVIEW

34 CFR 300.514

FINALITY OF THE HEARING DECISION

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision by bringing a civil action to either State Court of competent jurisdiction or Federal District Court.

CIVIL ACTION, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS

34 CFR 300.516

General

Any party (you or the school district) who does not agree with the findings and decision in the due process hearing (including a hearing relating to disciplinary procedures) has the right to bring a civil action with respect to the matter that was the subject of the due process hearing. The action may be brought in State Superior Court or in a Federal District Court of the United States without regard to the amount in dispute.

Time Limitation for Filing an Appeal

The party (you or the school district) bringing the appeal has 45 calendar days from the date the decision is mailed to file a civil action.

Additional Procedures

If you or the school district appeal the decision of the hearing officer to either State Superior Court or Federal District Court, the court:

1. receives the records of the hearing;
2. hears additional evidence when asked by you or the school district; and
3. bases its decision on the greater amount (preponderance) of evidence and grants the relief that the court determines to be appropriate.

Jurisdiction of District Courts

The District Courts of the United States have the authority to rule on actions brought under Part B of IDEA without regard to the amount of money in dispute.

RULE OF CONSTRUCTION

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws you must first use the available administrative remedies under IDEA (for example, the due process hearing; resolution process, including the resolution meeting, if not waived; and impartial due process hearing procedures) before going directly into court.

THE CHILD'S PLACEMENT WHILE THE DUE PROCESS HEARING IS PENDING

34 CFR 300.518

Except as provided below and in certain circumstances as explained in the section following on disciplining a child with a disability, when a due process hearing has been requested, your child must stay where the child is placed when the due process hearing request is filed with the same services your child was getting. Your child must stay in this program until the matter is settled unless you and the school district agree to change the school program. If a hearing officer agrees with you that a change to your child's school program is appropriate, the order of the hearing officer must be carried out, even if a court review (see page 25, Appeals) has been asked for.

If your child is to enter public school for the first time, your child, with your consent, must be able to go to school until the completion of all proceedings and must be placed in the regular public school program until the completion of all proceedings.

If your child turns 3 years of age and is coming from a Birth to Three program, the school district is not required to provide the Birth to Three services that your child had been receiving.

If your child is found to be eligible for special education services and you consent for your child to receive services for the first time, the school district must provide the services that are not in dispute between you and the school district.

If the school district or you ask for a due process hearing after your child has been placed in an interim alternative educational setting (IAES) for disciplinary reasons for not more than 45 school days by the school district under the **Special Circumstances, Placement in an IAES** (see page 31) or by a hearing officer under the **Appeal: Expedited Due Process Hearing for Disciplinary Matters** (see page 32), your child must stay in the IAES until the hearing officer decides differently or until the end of the specified time (which shall not be more than 45 school days), whichever comes first, unless you and the school district agree to change the school program.

If the school district wants to change your child's program after the specified time in the IAES is up and asks for a hearing, your child would return to the school program that your child was in before being placed in the IAES while the due process hearing is held.

ATTORNEYS' FEES

34 CFR 300.517

GENERAL

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you, if you prevail (the case is decided in your favor, either in whole or in part).

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may order your attorney to pay reasonable attorneys' fees as part of the costs to the school district or the CSDE (if the CSDE is a party to the case) if they prevail in the case, if your attorney:

1. files a request for a hearing or review by the court that is needless, is without good reason, or is without a proper basis (frivolous, unreasonable or without foundation); or
2. continues to litigate after it is clear that the matter is needless, is without good reason, or is without a proper basis; or
3. in any action or proceeding brought under Part B of IDEA, the court, in its discretion, may order your attorney or you to pay reasonable attorneys' fees as part of the costs to the school district or the CSDE if your request for a due process hearing or later court case was made for any improper purpose, such as to harass, to cause unnecessary delay, or needlessly increase the cost of the hearing or the court review.

AWARD OF FEES

A court awards reasonable attorney's fees according to the following: the amount of attorneys' fees that is decided is based on rates common in the area in which the hearing or court review arose for the kind and quality of services provided. No extra means may be used in figuring the fees ordered.

Attorneys' fees may not be ordered and related costs may not be returned to you in any hearing or court review for services provided after the time of a written offer to you to settle the matter if:

1. the offer is made within the time allowed by federal rule, or in the case of a hearing, at any time more than 10 calendar days before the hearing begins;
2. the offer is not accepted within 10 calendar days; and
3. the court finds that the relief finally given to you is not more than the offer to settle the matter.

An order for the return of attorneys' fees and other costs may be made to you if you succeed with your case if you had good reason for not taking the offer made by the school district to settle the matter if the final decision was not more favorable to you.

- An award of attorneys' fees may not be ordered for:
1. any meeting of the PPT unless the PPT meeting is held as a result of a hearing or a court review;
 2. a mediation (see page 22, Mediation); or
 3. the resolution meeting (see page 20, Resolution Meeting).

The court may lower attorneys' fees whenever it finds that:

1. you or your attorney during the hearing or the court review unreasonably delayed a final resolution of the dispute;
2. the amount of the attorneys' fees goes beyond, without good reason, the hourly rate common in the area for the same type of services by attorneys who compare in skill, reputation, and training;
3. the time spent and legal services provided were excessive considering the type of hearing or court review; or
4. the attorney representing you did not give to the school district the required information when requesting the hearing when submitting the due process complaint.

However, the court may not lower attorneys' fees if the court finds that:

1. the school district or the state unreasonably delayed the final resolution of the hearing or the court review; or
2. the procedural safeguards under Part B of IDEA were violated.

PROCEDURES FOR DISCIPLINING CHILDREN WITH DISABILITIES

34 CFR 300.530

AUTHORITY OF SCHOOL PERSONNEL

Case-by-Case Determination

School personnel may consider any special concerns (unique circumstances) on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with disability who violates a code of school conduct.

General

The school district may remove a child who violates a school rule from the current program to an interim Alternative Educational Setting (IAES), another setting, or suspension, for not more than 10 school days in a row or for more than 10 school days in a school year and for additional removals of not more than 10 school days in a row in the same school year for separate incidents of misconduct provided the removals do not result in a change in placement. See **Change in Placement** on the next page.

A school district is required to provide services to a child who has been removed from his or her current placement for 10 school days or fewer in the same school year if the school district provides services to a child without a disability who has been similarly removed. Once a child with a disability has been removed from his or her current placement for a total of 10 school days in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below. See **Services During Removal**, below.

ADDITIONAL AUTHORITY

If the behavior that violated the code of school conduct was not a manifestation of the child's disability (see **Manifestation Determination** on page 30) and the disciplinary change of placement would exceed 10 school days in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services During Removal**. The child's PPT determines the interim alternative educational setting for such services.

CHANGE IN PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

34 CFR 300.536

A change in placement occurs if:

1. the removal is for more than 10 school days in a row; or
2. the removals make up a pattern because:
 - they total more than 10 school days in a school year;
 - the child's behavior is very much like the child's behavior in previous incidents that resulted in other removals; and
 - of other factors such as the length of each removal, the total amount of time the child has been removed and the closeness in time of the removals to one another.

The school district shall determine on a case-by-case basis whether a pattern of removals is a change in placement.

If the school district seeks to change a child's placement for more than 10 school days and the behavior that led to this intended change was not a manifestation of the child's disability, the child may be disciplined in the same way and for the same amount of time that would be applied to a child who is not disabled. The child's PPT shall determine the educational setting.

SERVICES DURING REMOVAL

After a child has been removed from his or her school program for 10 school days in the same school year and the current removal is not for more than 10 school days in a row and is not a change in placement, the school staff along with at least one of the child's teachers shall determine the extent to which services are needed to enable the child to continue in the general education coursework, although in another setting, and to progress toward meeting the goals of the IEP. The student shall receive, as appropriate, a functional behavioral assessment (FBA) and behavior intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

If the removal is a change of placement, the child's PPT determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP.

A child with a disability who is removed from the child's current placement for more than 10 school days and the child's behavior is not a manifestation of the child's disability (see **Manifestation Determination** below) or who is removed under special circumstances (see **Special Circumstances**, next page) must:

1. continue to receive educational services (have available a free appropriate public education) so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim Alternative Educational Setting), and to progress toward meeting the goals set out in the child's IEP; and
2. receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

MANIFESTATION DETERMINATION

Within 10 school days of any decision to change a child's placement for more than 10 school days because the child violated a school rule, the school district with the parent and relevant members of the PPT (to be determined by the parent and the school district) shall review all relevant information in the child's school file, including the IEP, teacher observations, and any relevant information provided by the parent to determine if the behavior in question was:

1. caused by or was directly or to a large extent related to the child's disability; or
2. the direct result of the school district's failure to implement the IEP.

If the PPT determines that either of the above applies to the child, the behavior in question shall be determined to be a manifestation of the child's disability. This decision is known as the manifestation determination.

BEHAVIOR WAS A MANIFESTATION OF THE CHILD'S DISABILITY

If the PPT determines that the behavior in question was a direct result of the school's failure to implement the IEP, the school district must take immediate steps to remedy the deficiencies.

If the PPT decides the behavior in question was a manifestation of the child's disability, the PPT shall do the following as appropriate to the circumstances presented:

1. If the school district had not already conducted a functional behavior assessment (FBA) before the behavior in question occurred, conduct an FBA and put into effect a behavior intervention plan (BIP) (a plan to improve the child's behavior so that the behavior that resulted in the change of the child's program does not happen again);
2. If a BIP is already in place, the PPT will review the BIP and modify it as necessary to address the behavior in question; and

3. Except as noted in the IAES section below, the school district shall return the child to the program that the child was in before being removed unless the school district and the parent agree to a change in the child's placement as part of the revised SIP.

NOTIFICATION

On the date the decision is made for a removal that would be a change in placement, the school district must notify the parent of that decision and provide the parent with a copy of the "Procedural Safeguards Notice Required under IDEA Part B".

SPECIAL CIRCUMSTANCES; PLACEMENT IN IAES

A school district may place a child in an IAES for not more than 45 school days without regard to the manifestation determination in cases where a child:

1. carries a weapon to school or has a weapon at school, on school grounds or while at a school activity;
2. knowingly has or uses illegal drugs, or sells or tries to buy a controlled substance while at school, on school grounds or at a school activity; or
3. has caused serious bodily injury upon another person while at school, on school grounds or at a school activity.

When the school district orders a child to an IAES for not more than 45 school days, the school district must hold a PPT meeting to determine the IAES.

DEFINITIONS

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).

Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provisions of federal law.

Serious bodily injury has the meaning given to the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

Weapon has the meaning given to the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 1365 of title 18, United States Code.

APPEAL; EXPEDITED DUE PROCESS HEARING FOR DISCIPLINARY MATTERS

34 CFR 300.532

General

You may file a due process complaint to request a due process hearing if you disagree with:

1. any decision regarding placement made under these discipline provisions; or
2. the manifestation determination described above.

The school district may file a due process complaint to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

Authority of the Hearing Officer

A hearing officer who meets the requirements of the impartial hearing officer described above in the section on due process must conduct the due process hearing and make a decision. The hearing officer may:

1. return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the section above Authority of School Personnel, or that your child's behavior was a manifestation of your child's disability; or
2. order a change of placement of your child with a disability to an appropriate interim alternative education setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the heading **Due Process Procedures, Due Process Hearings**, except as follows:

1. the CSDE must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing.
2. unless you and the school district agree in writing to waive the meeting or agree to use mediation, a resolution meeting must occur within seven calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

The CSDE will arrange for an expedited hearing when a hearing is asked for as follows:

1. the school district thinks that keeping your child in the current school program is to a large extent likely to result in injury to your child or to others and the school district wants to put your child in an interim alternative educational setting (IAES) for not more than 45 school days;
2. your child is placed in an IAES and the school district wants to change your child's school program at the end of the IAES because the school district believes it is a danger for your child or others for your child to be in the school program that your child was in before being placed in the IAES and the school district asks for an expedited hearing. This hearing procedure may be repeated;
3. you challenge an alleged change of placement and believe your child has been kept out of school for more than 10 days in a row or for more than 10 days in a school year without the school district following the proper steps;
4. you do not agree with the school district placing your child in an IAES for a violation of the school district code of conduct concerning weapons, drugs or dangerousness; or
5. you do not agree with the manifestation determination.

Upon a request for a hearing for any of the matters noted in this section, the hearing shall occur within 20 school days of the date the hearing request is filed and shall result in a decision within 10 school days after the hearing.

Each party to a hearing:

1. has the right to keep any evidence from being presented at the hearing that has not been given to the other party at least five (5) business days before the hearing; and
2. shall give to all other parties all evaluations completed to date and the recommendations from the evaluations that the party wants to use at the hearing at least five (5) business days before the hearing.

PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

34 CFR 300.534

GENERAL

If your child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred that your child was a child with a disability, then your child may assert any of the protections described in this notice.

BASIS OF KNOWLEDGE FOR DISCIPLINARY MATTERS

A school district will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. you expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to your child's teacher that your child is in need of special education and related services;
2. you requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or
3. your child's teacher or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school district's director of special education or to other supervisory personnel of the school district.

EXCEPTION

A school district would not be deemed to have such knowledge if:

1. you have not allowed an evaluation of your child or have refused special education services; or
2. your child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

CONDITIONS THAT APPLY IF THERE IS NO BASIS OF KNOWLEDGE

If prior to taking disciplinary measures against your child, a school district does not have knowledge that your child is a child with a disability as described above under the subheadings **Basis of Knowledge for Disciplinary Matters** and **Exception**, your child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.

However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by you, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

34 CFR 300.535

PART B OF IDEA DOES NOT:

1. prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
2. prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

TRANSMITTAL OF RECORDS

If a school district reports a crime committed by a child with a disability, the school district:

1. must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
2. may transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Education Rights and Privacy Act (FERPA).

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

34 CFR 300.148

GENERAL

Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a free appropriate public education available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR 300.131 through 300.144.

REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT

If your child had previously received special education and related services under the authority of a school district and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the school district to reimburse you for the cost of that enrollment if it is decided that:

1. the school district had not made available a free appropriate public education that could meet your child's educational needs in a timely manner before you enrolled your child in the private school; and

2. the private school program for your child meets your child's educational needs (the private school placement is appropriate).

The private school program provided to your child may be found to be an appropriate program for your child by a hearing officer or a court even if the private school does not meet the state standards that apply to the education provided by the school district.

LIMITATION ON REIMBURSEMENT

The return of the costs for the private school may be denied or reduced:

1. if at the last PPT meeting that you attended before taking your child out of the public schools, you did not:
 - a. tell the PPT of not wanting the placement offered by the school district;
 - b. state the concerns about the placement offered by the school district; and
 - c. state the intent to enroll your child in a private school at public expense; or
2. if at least 10 business days (including any holidays that occur on a business day) before taking your child out of the public school, you did not:
 - a. give notice in writing to the school district of not wanting the placement offered by the school district;
 - b. state the concerns about the placement offered by the school district; and
 - c. state the intent to enroll your child in a private school at public expense; or
3. if before you took your child out of the public school, the school district told you in writing of its intent to evaluate your child, giving the purpose of the evaluation, and you did not make your child available for evaluation; or
4. upon a court deciding that you did not act within reason.

The return of the costs:

1. shall not be reduced or denied because the parent did not tell the school because:
 - the school district kept you from giving notice as noted above;
 - you had not received notice from the school district that you had to tell the school district, as noted above, before putting your child in the private school if you wanted to get the school district to return the costs of the private school; or
 - having to tell the PPT, as noted above, would likely result in physical harm to the child; and
2. may, in the finding of the hearing officer or the court, not be reduced or denied because you did not tell the school district because:
 - you cannot read and write in English; or
 - having to tell the PPT, as noted above, would likely result in serious emotional harm to your child.

Parental Notification of the Laws Relating to the use of Seclusion and Restraint in the Public Schools

Introduction

You have been provided with a copy of the "Procedural Safeguards in Special Education." The Procedural Safeguards document outlines your rights and the rights of your child under the federal Individuals with Disabilities Education Act (the IDEA) and the Connecticut statutes and regulations concerning the provision of special education and related services to children with disabilities.

The Board of Education is also required by state statute to inform you about a specific provision of the state statutes and regulations regarding the emergency use of physical restraint and seclusion or the use of seclusion as a behavior intervention in a child's IEP. Every parent must be advised of these rights at the Initial Planning and Placement Team meeting (PPT) held for their child even if the emergency use of physical restraint or seclusion or the use of seclusion as a behavior intervention in a child's IEP is not likely to occur with their child.

On and after October 1, 2009, you must be provided with a copy of the state developed "Parental Notification of the Laws relating to Physical Restraint and Seclusion in the Public Schools" at the first PPT meeting following your child's initial referral for special education. If your child was eligible for special education prior to October 1, 2009, you will receive this notice at the first PPT meeting convened after October 1, 2009. In addition, the notice must also be provided to you at the first PPT meeting where the use of seclusion as a behavior intervention is included in your child's IEP.

Who are the children covered by the law ?

The state statute uses the term "person at risk" to describe the people generally covered by the statute. For the public schools, the "person at risk" is (1) a child requiring special education and related services who is

receiving services from their board of education or (2) a child being evaluated to determine the child's eligibility for special education and related services. This notice uses the term "child" and this means a child who is eligible for special education and related services and is receiving services from their board of education or a child who is being evaluated to determine the child's eligibility for special education and related services.

What does "physical restraint" mean?

Physical restraint means any mechanical or personal restriction that immobilizes or reduces the free movement of a child's arms, legs or head. It does not include: (1) briefly holding a child in order to calm or comfort the child; (2) restraint involving the minimum contact necessary to safely escort a child from one area to another; (3) medication devices, including supports prescribed by a health care provider to achieve proper body position or balance; (4) helmets or other protective gear used to protect a child from injuries due to a fall; or (5) helmets, mitts and similar devices used to prevent self injury when the device is part of a documented treatment plan or IEP and is the least restrictive means available to prevent self-injury.

What does "seclusion" mean?

Seclusion means the confinement of a child in a room, whether alone or with staff supervision, in a manner that prevents the child from leaving. In public schools, seclusion does not mean any confinement of a child where the child is physically able to leave the area of confinement such as in-school suspension and time-out.

What do I need to know about the emergency use of restraint and seclusion?

1. Life threatening physical restraint is prohibited. Life threatening physical restraint means any physical restraint or hold of a child that restricts the flow of air into a child's lungs, whether by chest compression or any other means.
2. Involuntary physical restraint may not be used to discipline a child; it may not be used because it's convenient and it may not be used as a substitute for a less restrictive alternative.
3. Involuntary physical restraint is to be used solely as an emergency intervention to prevent immediate or imminent injury to the child or to others. When a

child is physically restrained, the child is to be continually monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is physically restrained must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child's educational records.

4. Involuntary seclusion may not be used to discipline a child; it may not be used because it's convenient and it may not be used as a substitute for a less restrictive alternative.

5. When a child is involuntarily placed in seclusion as an emergency intervention to prevent immediate or imminent injury to the child or to others, the child is to be frequently monitored by a person who has the training as described in #7 below. Monitoring means direct observation of the child or observation by way of video monitoring within physical proximity sufficient to provide aid as may be needed. A child who is involuntarily secluded must be regularly evaluated for any signs of physical distress by a person who has the training as described in #7 below. The evaluation must be documented in the child's educational records.

6. A psychopharmacologic agent (medications that affect the central nervous system, influencing thinking, emotion or behavior) may not be used with your child except as prescribed by a physician and administered according to the orders of your child's physician and in compliance with board policies concerning the administration of medications in the school.

7. A child may be physically restrained or removed to seclusion only by a person who has received training in physical management, physical restraint and seclusion procedures including training to recognize health and safety issues for children placed in seclusion. Additional training such as verbal de-escalation, prevention strategies; types of physical restraint; the differences between permissible physical restraint and other varying levels of physical restraint; the differences between permissible physical restraint and pain compliance techniques, monitoring to prevent harm to a child physically restrained or in seclusion and recording and reporting procedures on

the uses of restraint and seclusion must also be provided.

8. Public schools are required to maintain a safe school setting. Public schools are allowed to use reasonable physical force when and to the extent there is a reasonable belief it is necessary to protect students or staff, obtain possession of a dangerous instrument or controlled substance upon or within control of a minor, protect property from physical damage or restrain a child or remove a child to another area to maintain order. The prohibitions listed in Items 1-5, above, do not conflict with the responsibility of public schools to maintain a safe school setting or use reasonable physical force as described here.

If seclusion is used as a behavior intervention in my child's IEP, what can I expect?

9. A public school may use seclusion as a behavior intervention if it's specifically addressed in your child's individualized education program (IEP). A "behavior intervention" means supports and other strategies developed by the PPT to address a child's behavior which may interfere with the child's learning or the learning of others.

10. Seclusion may only be used as a behavior intervention in your child's IEP if other less restrictive, positive behavior interventions appropriate to the behavior exhibited by your child were tried but the child's behavior did not improve.

11. Seclusion may not be used as a behavior intervention for a child if it is known that the child has any medical or psychological conditions that a licensed health care provider has indicated will be directly and adversely impacted by the use of seclusion.

12. Where seclusion is used as a behavior intervention, your child's IEP must specify:

- (a) the location of seclusion, which may be multiple locations within a school building;
- (b) the maximum length of any period of seclusion;
- (c) the number of times in a single day the child may be placed in seclusion;
- (d) the frequency of monitoring while the child is in seclusion; and
- (e) any other concerns addressed by the PPT concerning the age, disability and

behaviors of a child where seclusion may be used as a behavior intervention. The use of seclusion as a behavior intervention is to be limited to the time necessary to allow the child to calm down and return to school activities. A child may not be placed in seclusion for more than one hour unless necessary to prevent immediate or imminent injury to the child or to others. Seclusion may be continued over an hour only with the written authorization of the building principal or someone designated by the building principal. When the child may need to be transported, the written authorization to continue the use of seclusion is not required if immediate or imminent injury to the child or to others is a concern.

17. A child may be removed to seclusion only by a person who has received training in physical management, physical restraint and seclusion procedures including training to recognize health and safety issues for children placed in seclusion. Additional training such as verbal de-escalation or de-escalation; prevention strategies; types of physical restraint; the differences between permissible physical restraint and pain compliance techniques, monitoring to prevent harm to a person physically restrained or in seclusion and recording and reporting procedures on the uses of restraint and seclusion must also be provided.

18. A child placed in seclusion as a behavior intervention must be monitored as described in the child's IEP by a person specifically trained in physical management, physical restraint and seclusion procedures, which include training to recognize health and safety issues for children placed in seclusion to ensure the safe use of seclusion as a behavior intervention.

19. If you disagree with the use of seclusion in your child's IEP, you have the right to special education due process. You may request the school district agree to mediation to resolve your concerns, or you may proceed directly to a hearing to challenge the use of seclusion in your child's IEP as a behavior intervention. You may also file a complaint with the State Department of Education regarding the use of seclusion as a behavior intervention.

20. Any room used for seclusion must be physically comparable to other rooms in the building used for instructional purposes and must be of a size that is appropriate to the chronological and developmental age, size and behavior of the child. The room used must be free of any object that might pose a danger to the child who is placed in the room. If the door has a lock, the lock must be able to be disengaged automatically in the case of an emergency. The room must have an unbreakable observation window located in the wall or door to allow frequent visual monitoring of the child and any other person in the room.

21. The school must document any use of physical restraint or seclusion in the child's educational record and, if an injury occurs, in the child's health record at school by filling out the State Department of Education standardized incident report.

22. Where restraint or seclusion is of an emergency nature, the incident report must include: (a) the nature of the emergency, (b) what other steps, including attempts at verbal de-escalation, were taken to prevent the emergency from happening if there were signs that this kind of an emergency was likely to happen, (c) a detailed description of the nature of the restraint or seclusion, (d) how long the child remained in seclusion and (e) what effect being in seclusion had on the child's medical or behavioral support or educational plan.

23. The school district must record each instance of the use of physical restraint or seclusion and the nature of the emergency that necessitated its use and include this information in an annual compilation on the district's use of restraint and seclusion.

24. Where seclusion is used as a behavior intervention, the incident report must provide a detailed description of the nature of the seclusion, how long the child remained in seclusion and what effect being in seclusion had on the child's medical or behavioral support or educational plan.

25. The school district must attempt to notify you on the day of or within twenty-four hours after the emergency use of physical restraint or seclusion. This notification may be made by phone, e-mail or other method of communication which may include sending a note home with the child. You must be sent a copy of the incident report no later than two business days after the emergency use of physical restraint or seclusion.

26. If seclusion is included in your child's IEP as a behavior intervention, you and the PPT determine a timeframe and manner of notification of each incident of seclusion. This information is to be included in your child's IEP.

How will I be notified if restraint or seclusion is used with my child?

What kinds of reporting is done by the schools on the use of restraint and seclusion?

Where can I find a copy of the State Statutes and Regulations Discussed in this Notification?

The state statutes addressing the use of physical restraint or seclusion in the public schools are found in Section 10-76d(a)(3)(B) and Sections 46a-150 to 46a-154, inclusive of the Connecticut General Statutes. The state regulations are Sections 10-76b-5 to 10-76b-11, inclusive. The state statute concerning the responsibility of boards of education to maintain a safe school setting may be found in Section 10-220 of the statutes and, the state statute concerning the use of reasonable physical force may be found in Section 53a-18 of the general statutes.

You may find the state statutes on the www.cga.ct.gov Legislative website. Once on the website, place the cursor on the "Statutes" link. Move the cursor down to "Browse Statutes" and click on it. You will see the statutes listed by Title; for Section 10-76d, look in Title 10; for Sections 46a-150 to 46a-154, look in Title 46a and for Section 53a-18, look in Title 53.

A copy of the state regulations is available from the State Department of Education.

You may obtain a copy of the school district's written policies and procedures about the use of physical restraint or seclusion from _____ . Any questions regarding this document, please feel free to contact _____ for further explanations.

You may also contact the State Department of Education for further explanations of this document. Contact the Bureau of Special Education in Hartford at (860) 713-6910.

Release date September 15, 2009

WESTPORT PUBLIC SCHOOLS

ELLIOTT LANDON
Superintendent of Schools

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To: Members of the Board of Education
From: Elliott Landon
Subject: Proposed Policy P3431: Health and Medical Insurance
Date: April 28, 2014

Pursuant to the wishes of the Board that a Board Policy be developed with regard to health and medical insurance, I have prepared in collaboration with Elio Longo and Marge Cion the attached proposed policy for your consideration.

The essential elements of the policy are, as follows:

1. Establishment of a District Internal Service Fund for Health and Medical Insurance.
2. Reporting activity for the Internal Service Fund shall be included with all quarterly and end-of-year financial reports and will include a Statement of Cash Flows and a Statement of Net Assets.
3. All financial reports will show contributions by employees and employer, as well as payments for services, resulting changes to the IBNR and the amount available for future costs.
4. Creation of a claims fluctuation margin of no less than 5% of projected health and medical insurance claims.
5. For IBNR health claims, a funding level of 9% of anticipated claims.
6. Maintenance of an employee risk pool separate from that of the Town of Westport.
7. Annual review by the Board in November of each year, in consultation with its health benefits consultant, the funding levels established in the previous year.

ADMINISTRATIVE RECOMMENDATION

Be It Resolved, That upon the recommendation of the Superintendent of Schools, the Board of Education approves Board of Education Policy P3431: Health and Medical Insurance.



Business and Non-Instructional Operations

Health and Medical Insurance

Philosophy

The establishment of a health and medical insurance funding policy based on confidence levels established by the Board of Education's benefit consultant is hereby established and will be applicable to the District's Internal Service Fund for Health and Medical Insurance. Internal Service Funds are commonly established when a governmental entity such as the Westport Public Schools ("District") wishes to account for a particular activity separately from its operating fund revenues and expenses. The District wishes to establish an Internal Service Fund for Health and Medical Insurance under its statutory responsibilities as a creation of the State of Connecticut so as to be able to report the ongoing employer and employee contributions, expenses and fund balance available for health care and medical costs.

Adequate funding levels are a necessary component of the District's overall financial management strategy and a key factor in assessing the school district's financial strength. Adequate funding provides the District with the resources to manage cash flow with regard to health and medical insurance and deal with unanticipated and/or volatile expenses, catastrophic illnesses and changes in economic conditions. Adequate balances in the Internal Service Fund for Health and Medical Insurance lessen the chances that unexpected deficits in this fund will need to be covered by the General Fund or by the Board of Finance. As self-insured, the District collects employee and employer contributions and uses these revenues to pay health care and medical costs. At the end of the fiscal year, the difference between the amount collected and the bills paid is retained as a Health Care and Medical Reserve. The district also records the amount of health care claims that have been Incurred But Not Received (IBNR) at the end of the fiscal year.

Reporting activity about the Internal Service Fund for Health and Medical Insurance in the quarterly and end-of-year financial reports will include a Statement of Cash Flows and a Statement of Net Assets. These statements will show contributions by employees and employer as well as payment for services and the resulting changes to the IBNR and the amount available as a reserve for future costs.

Funding Levels

The desired Board of Education funding level to preserve an appropriate claims fluctuation margin should be no less than 5% of projected health and medical insurance claims as determined by the health benefits consultant of the Board of Education for the fiscal year extending from July 1 to June 30. For the IBNR health claims, the desired funding level should be 9% of anticipated claims as determined by the health benefits consultant of the Board of Education, assuming constant anticipated expenditures from year to year.

Relationship With Town of Westport

In the event the Board of Education, in its sole discretion, determines that it is in the best interests of the school system to be insured for health and medical insurance by the same insurance consultant as the Town of Westport, two separate and distinct employee risk pools shall be maintained; one for Board of Education employees and one for Town employees. The revenues and expenses associated with the risk pool for Board of Education employees shall be the sole responsibility of the Board of Education; those associated with the Town are to be the sole responsibility of the Town.

Review

The Board of Education shall review annually in November of each year, in consultation with its health benefits consultant, the funding levels established in the previous year.

WESTPORT PUBLIC SCHOOLS

Legal Reference: Connecticut General Statutes
10-220 Duties of boards of education

Policy adopted:

WESTPORT PUBLIC SCHOOLS

ELLIOTT LANDON
Superintendent of Schools

110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
TELEPHONE: (203) 341-1010
FAX: (203) 341-1029

To: Members of the Board of Education

From: Elliott Landon

Subject: Health Insurance Reserves

Date: April 28, 2014

You will find appended to this memorandum the following documents applicable to the above-referenced subject:

1. Medical Health Insurance Budget Projections as prepared by Segal Consulting based on claims data through March 2014, released April 21, 2014.
2. FYE 2013/2014 WPS Medical Health Insurance Fund – Projected Cash Flows as prepared by McGladrey based on a revised report dated March 14, 2014 from Segal Consulting.
3. Medical Health Insurance Fund Analysis as prepared previously by McGladrey for the period July 1, 2013 through February 28, 2014 with projections through June 30, 2014.
4. Medical Health Insurance Fund Projected Cash Flows FYE – (PRELIMINARY)* as of March 31, 2014 as prepared by Elio Longo [2 pages].
5. “Month-to-Month Actual Claims and Allowance Analysis” prepared by Elio Longo in response to the recommendations of the Board of Education’s Health Insurance Fund Review Committee.

In reviewing the data and making our best estimates, we believe that if the current situation maintains its forward progress, we will be able to end the fiscal year with a District Internal Service Fund for Health and Medical Insurance claims that contains a fluctuation margin of no less than 5% of projected health and medical insurance claims. With a fluctuation margin of 5%, and with the understanding that the Board of Finance has stated a preference for continuing to address the IBNR as we have in the past, there is no reason to ask the Board of Finance for a supplemental appropriation at this time.



WESTPORT PUBLIC SCHOOLS
MEDICAL HEALTH INSURANCE BUDGET PROJECTIONS
Based on Claims Data Through March 2014

FISCAL YEAR ENDING JUNE 30th: <i>Release Date:</i>	2014			2015	
	Projection 12/13/2012	Projection 3/14/2014	Current Projection	All Unions on HSA Plan	
				Projection 3/14/2014	Current Projection
SELF-FUNDED CLAIMS	\$15,290,400	\$14,060,700	\$13,887,000	\$14,022,200	\$13,856,400
Medical	\$12,071,000	\$11,171,900	\$10,991,200	\$11,156,200	\$10,986,200
Prescription Drug	\$2,237,600	\$1,988,300	\$1,987,600	\$1,939,700	\$1,933,600
Dental	\$981,800	\$900,500	\$908,200	\$926,300	\$936,600
EXPENSES	\$2,230,000	\$2,057,000	\$2,081,700	\$2,850,100	\$2,760,900
Contribution to HSA Deductible for Actives	\$850,000	\$765,700	\$765,700	\$1,291,000	\$1,284,000
Medical Administrative	\$446,400	\$427,900	\$427,400	\$460,800	\$444,600
Network Access Fee	\$173,700	\$158,900	\$158,700	\$163,500	\$164,600
Individual Stop-Loss (\$225,000)	\$606,200	\$631,500	\$630,800	\$749,700	\$682,700
Dental Administrative	\$47,000	\$45,100	\$45,200	\$46,100	\$46,300
FSA Admin	\$7,800	\$2,900	\$2,900	\$2,000	\$2,000
Segal Fee	\$25,000	\$25,000	\$51,000	\$25,000	\$25,000
ACA Related Fees	\$73,900	\$0	\$0	\$112,000	\$111,700
EMPLOYEE CONTRIBUTIONS	(\$3,567,200)	(\$2,919,900)	(\$2,919,400)	(\$2,727,500)	(\$2,695,500)
Actives	(\$2,820,600)	(\$2,404,900)	(\$2,404,900)	(\$2,246,100)	(\$2,222,200)
COBRA Participants	(\$100,500)	(\$12,500)	(\$12,500)	(\$11,700)	(\$11,500)
Retirees under 65	(\$646,100)	(\$502,500)	(\$502,000)	(\$469,700)	(\$461,800)
SUBTOTAL COST	\$13,953,200	\$13,197,800	\$13,049,300	\$14,144,800	\$13,921,800
Claim Fluctuation Margin	\$764,500	\$703,000	\$694,400	\$701,100	\$692,800
SUBTOTAL COST PLUS MARGIN	\$14,717,700	\$13,900,800	\$13,743,700	\$14,845,900	\$14,614,600
LIFE & DISABILITY EXPENSES	\$281,000	\$265,100	\$265,100	\$281,900	\$281,900
Life/AD&D	\$272,900	\$252,600	\$252,600	\$260,200	\$260,200
LTD	\$8,100	\$12,500	\$12,500	\$21,700	\$21,700
MEDICAL WAIVER	\$46,500	\$39,000	\$39,000	\$39,000	\$39,000
TOTAL COST PLUS MARGIN	\$15,045,200	\$14,204,900	\$14,047,800	\$15,166,800	\$14,935,500

NOTES:

- 1) Retirees over 65 are not included.
- 2) The projections in this report are estimates of future costs and are based on information available to Segal Consulting at the time the projections were made. Segal Consulting has not audited the information provided. Projections are not a guarantee of future results. Actual experience may differ due to, but not limited to, such variables as changes in the regulatory environment, local market pressure, health trend rates and claims volatility. The accuracy and reliability of health projections decrease as the projection period increases. Unless otherwise noted, these projections do not include any cost or savings impact resulting from the new health care reform legislation or other recently passed state or federal regulations.
- 3) Projection of retiree costs takes into account only the dollar value of providing benefits for current retirees during the period referred to in the projection. It does not reflect the present value of any future retiree benefits for active, disabled or terminated employees during a period other than that which is referred to in the projection, nor does it reflect any anticipated increase in the number of those eligible for retiree benefits, or any changes that may occur in the nature of benefits over time.
- 4) Self-funded claim projections are based on the most recent experience for the period April 1, 2013 through March 31, 2014.
- 5) Enrollment counts for the medical and dental projections are based on active and retiree under 65 enrollment through March 2014 provided by CIGNA & Delta.
- 6) The following annual trend factors were used: 9% for medical claims, 7% for prescription drug claims, 5% for dental claims. Administrative fees and Individual stop-loss fees are based on the July 1, 2014 CIGNA renewal.
- 7) Assumed an annual 3% increase in salary for the Life/AD&D and a 3% increase in the LTD projections.
- 8) Negotiated September 1, 2013 changes to the Teachers benefit design and employee cost share structure have been reflected in the projections.
- 9) Negotiated July 1, 2013 increases in employee cost share percentages for the Teachers and Secretaries have been reflected in the projections.
- 10) The projections for FYE2015 includes adjustments for all non-Teacher unions moving to the HSA plan effective September 1, 2014. The projection assumes actives will contribute 17% of HSA plan.
- 11) Margin is recommended to protect against claims fluctuations for a group this size. Noted above is the recommended margin equivalent to five percent of paid claims.
- 12) Budget estimates do not include changes in reserve levels for Incurred But Not Reported (IBNR) Claims.
- 13) The projections in this report include fees related to the Affordable Care Act including the Comparative Research Fee due by July 31st of each year and the Transitional Reinsurance Fee beginning in calendar year 2014, with the first payment due January 2015. Medical Administrative costs include the Connecticut State Immunization Fee paid in February of each year.
- 14) Employee contributions for FYE2014 are based on the current funding rates and enrollment provided by the BOE. Employee contributions for FYE2015 are based on estimated funding rates for the period and enrollment as of February 2014 provided by the BOE. Employee contributions include Life Insurance contributions as provided by the BOE.
- 15) Retiree contributions reflect premium dollars paid by retirees and the subsidy received by the Teachers' Retirement Board. We have assumed the Board of Education subsidizes the retiree cost by \$80,000.
- 16) Unum LTD premium reflects an increase in the benefit from \$3,000 to \$5,000 beginning March 2014.

II. Medical Health Insurance Fund Analysis

FYE 2013/2014 WPS Medical Health Insurance Fund – Projected Cash Flows

The following schedule presents in the projected cash flows of the WPS Medical Health Insurance Fund, for FYE 2013/2014 based on a revised report dated March 14, 2014 from the insurance consultant:

	WPS Original FYE 2013/2014	WPS Revised FYE 2013/2014	Variance FYE 2013/2014	Consultant Original FYE 2013/2014	Consultant ⁽¹⁾ Revised FYE 2013/2014	Variance FYE 2013/2014
Projected Cash Receipts						
General Fund Budget from line 210	\$ 12,802,500	\$ 12,602,500	\$ -	\$ 13,953,200	\$ 13,197,800	\$ (755,400)
Other Fund Contributions	85,000	85,000	-	-	-	-
Employee Contributions	2,874,300	2,350,000	(524,300)	2,820,600	2,404,900	(415,700)
Cobra Participants	7,900	8,100	200	100,500	12,500	(88,000)
Retirees under 65	370,000	380,000	10,000	646,100	502,500	(143,600)
State Teachers Retirement (TRB)	140,000	140,000	-	-	-	-
Life Insurance Premiums	25,000	25,000	-	-	-	-
Retirees over 65	440,000	420,000	(20,000)	-	-	-
Total Cash Receipts	16,544,700	16,010,600	(534,100)	17,520,400	16,117,700	(1,402,700)
Cash disbursements						
Medical	12,071,000	11,171,900	899,100	12,071,000	11,171,900	899,100
Prescription	2,237,600	1,988,300	249,300	2,237,600	1,988,300	249,300
Dental	981,800	900,500	81,300	981,800	900,500	81,300
Contributions to HAS	850,000	765,700	84,300	850,000	765,700	84,300
Medical Administrative	400,000	427,900	(27,900)	446,400	427,900	18,500
Network Access Fee	162,000	158,900	3,100	173,700	158,900	14,800
Individual Stop-Loss	606,200	631,500	(25,300)	606,200	631,500	(25,300)
Dental Administrative	47,000	45,100	1,900	47,000	45,100	1,900
FSA Administrative	7,800	2,900	4,900	7,800	2,900	4,900
Segal Fee	30,000	25,000	5,000	25,000	25,000	-
ACA Related Fees	73,900	-	73,900	73,900	-	73,900
Retirees over 65	645,000	639,116	5,884	-	-	-
Total cash disbursements	18,112,300	16,756,816	1,355,484	17,520,400	16,117,700	1,402,700
Change in cash balance before BOE additional transfer	(1,567,600)	(746,216)	821,384	-	-	-
Additional Transfer from BOE	-	240,000	240,000	-	-	-
Change in cash balance	(1,567,600)	(506,216)	1,061,384	-	-	-
Beginning cash balance	799,991	799,991	-	799,991	799,991	-
Ending cash balance (deficit)	(767,609)	293,775	1,061,384	799,991	799,991	-
Less: Incurred but not reported claims	(1,300,000)	(1,300,000)	-	(1,300,000)	(1,300,000)	-
Net Position (Deficit) end of year	\$ (2,067,609)	\$ (1,006,225)	\$ 1,061,384	\$ (500,009)	\$ (500,009)	-

II. Medical Health Insurance Fund Analysis

FYE 2014 WPS Medical Health Insurance Fund – July 1, 2013 through February 28, 2014 and projections through June 30, 2014 with prior year actual for FYE 2010, 2011, 2012 and 2013

The table below demonstrates the budgeted health insurance activity fee for FYE 2011, 2012, 2013 activity and projections for FYE 2014:

	Actual FYE 2009/2010	Actual FYE 2010/2011	Actual FYE 2011/2012	Actual FYE 2012/2013	Revised Estimated FYE 2013/2014	(3) Actual Through 28-Feb-14 FYE 2013/2014	Estimated Final Four Months FYE 2013/2014
Beginning Cash Balance	\$ 2,123,192	\$ 2,170,520	\$ 2,189,121	\$ 2,497,462	\$ 799,991	\$ 799,991	\$ 700,045
Cash Receipts:							
Charges for services	15,097,462	14,501,929	14,709,155	14,725,045	13,554,484	8,812,717	4,741,767
Interest income	4,454	2,082	120	5	-	-	-
Total cash receipts	15,101,916	14,504,011	14,709,275	14,725,050	13,554,484	8,812,717	4,741,767
Cash Disbursements:							
Claims	15,153,542	14,485,410	14,615,634	16,288,107	14,060,700	8,912,662	5,148,038
Change in IBNR	(98,954)	-	(214,700)	134,414	-	-	-
Total cash disbursements	15,054,588	14,485,410	14,400,934	16,422,521	14,060,700	8,912,662	5,148,038
Change in cash balance	47,328	18,601	308,341	(1,697,471)	(506,216)	(99,946)	(406,270)
Cash balance end of period	\$ 2,170,520	\$ 2,189,121	\$ 2,497,462	\$ 799,991	\$ 293,775	\$ 700,045	\$ 293,775

(1) Based on Insurance consultant Report 3/14/2014

(2) Includes a non-recurring \$240,000 transfer from the BOE operating budget.

(3) This column will be updated on a monthly basis by the WPS

Key Points:

- The average monthly claims paid are approximately \$1,114,000 per month based on total claims through February of \$8,912,662.
- The remaining claims are based on the total estimate of self-funded claims (\$14,060,700) are projected at \$1,287,000 per month for the final four months of the fiscal year.

Medical Health Insurance Fund
Projected Cash Flows FYE - (Preliminary)*
as of March 31, 2014

	3/14/2014	4/21/2014	variance
Cash receipts			
General Fund Budget from line 210	\$ 12,602,500	\$ 12,602,500	-
Other Fund Contributions	85,000	85,000	-
Employee Contributions	2,350,000	2,350,000	-
Cobra Participants	8,100	7,906	(194) U
Retirees under 65	380,000	380,000	-
State Teachers Retirement (TRB)	140,000	135,654	(4,346) U
Life Insurance Premiums	25,000	25,146	146 F
Retirees over 65	420,000	420,000	-
Total cash receipts	16,010,600	16,006,206	(4,394) U
Cash disbursements			
Medical	11,171,900	10,991,200	180,700 F
Prescription	1,988,300	1,987,600	700 F
Dental	900,500	908,200	(7,700) U
Contribution to HSA	765,700	765,700	-
Medical Administrative	427,900	427,400	500 F
Network Access Fee	158,900	158,700	200 F
Individual Stop-Loss	631,500	630,800	700 F
Dental Administrative	45,100	45,200	(100) U
FSA Administrative	2,900	2,900	-
Segal Fee	25,000	51,000	(26,000) U
ACA Related Fees	-	-	-
Retirees over 65	639,116	639,116	-
Total cash disbursements	16,756,816	16,607,816	149,000 F
Change in cash balance before BOE additional transfer	(746,216)	(601,610)	144,606 F
Additional transfer from BOE	240,000	240,000	-
Change in cash balance	(506,216)	(361,610)	144,606 F
Beginning cash balance	799,991	799,991	-
Ending cash balance(deficit)	293,775	438,381	144,606 F
Less: Incurred but not reported claims	(1,300,000)	(1,300,000)	-
Net Position(Deficit) end of year	(1,006,225)	(861,619)	144,606 F

	Actual Through 31-Mar-14 FYE 2013/2014	Estimated Final Three Months FYE 2013/2014	Average Monthly Allowance
Beginning Cash Balance			
Cash Receipts:			
Charges for services	\$ 799,991	-	-
Interest income	13,554,484	(29,094)	U
Total cash receipts	13,554,484	(29,094)	U
Cash Disbursements:			
Claims	14,060,700	173,700	F
Change in IBNR	-	-	-
Total cash disbursements	14,060,700	173,700	F
Change in cash balance	(506,216)	144,606	F
Projected - Cash balance end of period	293,775	438,381	F
Charges for services			
General Fund Budget from line 210	\$ 12,602,500	\$ 12,602,500	-
Less:			
Contribution to HSA	(765,700)	(765,700)	-
Medical Administrative	(427,900)	(427,400)	500 F
Network Access Fee	(158,900)	(158,700)	200 F
Individual Stop-Loss	(631,500)	(630,800)	700 F
Dental Administrative	(45,100)	(45,200)	(100) U
FSA Administrative	(2,900)	(2,900)	-
Segal Fee	(25,000)	(51,000)	(26,000) U
ACA Related Fees	-	-	-
Retirees over 65	(639,116)	(639,116)	-
Add:			
Employee Contributions	2,350,000	2,350,000	-
Cobra Participants	8,100	7,906	(194) U
Retirees under 65	380,000	380,000	-
State Teachers Retirement (TRB)	140,000	135,654	(4,346) U
Life Insurance Premiums	25,000	25,146	146 F
Retirees over 65	420,000	420,000	-
Other Fund Contributions	85,000	85,000	-
Additional transfer from BOE	240,000	240,000	-
	13,554,484	13,525,390	(29,094) U
Cash disbursements (claims)			
Medical	11,171,900	10,991,200	180,700 F
Prescription	1,988,300	1,987,600	700 F
Dental	900,500	908,200	(7,700) U
	14,060,700	13,887,000	173,700 F

Month-to-Month Actual Claims and Allowance Analysis

Cash disbursements	28-Feb-2014	31-Mar-2014	variance
Actual claims FYTD	8,912,662	10,121,294	1,208,632
FYTD average month	1,114,083	1,124,588	10,505 U
Remaining months allowance	5,148,038	3,765,706	(1,382,332)
Avg monthly allowance	1,287,010	1,255,235	(31,774) U
Current month actual-to-allowance %	94%		
Current month actual-to-allowance % (revised)	96%		

* Based on Segal Consulting Report 4/21/2014 includes a non-recurring \$240,000 transfer from the BOE operating budget. Further testing of Cash Receipts required.

Key Points:

- The average monthly claims paid are approximately \$1,124,600 per month based on total claims through March of \$10,121,294.
- The remaining claims are based on the total estimate of self-funded claims (\$13,887,000) are projected at \$1,255,235 per month for the final three months of the fiscal year.

Claims Cash Draw Against Insurance Fund Account

	Medical/Rx	Dental	Flex	Adj.	Total
Jul 2013	\$ 1,017,551	\$ 107,225	\$ 11,456		\$ 1,136,233
Aug 2013	\$ 1,451,843	\$ 102,032	\$ 8,641	\$ 414	\$ 1,562,930
Sept 2013	\$ 1,043,929	\$ 99,489	\$ 6,379		\$ 1,149,797
Oct 2013	\$ 1,018,703	\$ 61,667	\$ 12,565		\$ 1,092,935
Nov 2013	\$ 784,163	\$ 71,965	\$ 10,981		\$ 867,109
Dec 2013	\$ 871,321	\$ 84,840	\$ 25,032		\$ 981,194
Jan 2013	\$ 1,064,320	\$ 51,082	\$ 10,887		\$ 1,126,289
Feb 2013	\$ 919,567	\$ 67,333	\$ 9,275		\$ 996,175
Mar 2013	\$ 1,061,829	\$ 123,577	\$ 23,226		\$ 1,208,632
	\$ 9,233,227	\$ 769,211	\$ 118,442	\$ 414	\$ 10,121,294

WESTPORT PUBLIC SCHOOLS

ELLIOTT LANDON
Superintendent of Schools

110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
TELEPHONE: (203) 341-1010
FAX: (203) 341-1029

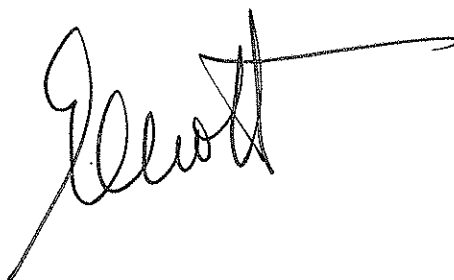
To: Members of the Board of Education
From: Elliott Landon
Subject: Authorization for Capacity Studies of All Schools
Date: April 28, 2014

At the Board of Education meeting of April 7, it appeared to be the consensus of the Board that before we attempt to examine the single goal among the Goals, Objectives and Action Plans for the 2013-14 school that would have us examine the "short- and long-term impact of increased/decreased enrollments..." it would be best to first examine the capacities of all schools.

Towards that end, I hereby request of the Board of Education authorization to initiate studies of building capacities in relation to current class size guidelines, with special emphasis on Staples High School, and to make recommendations concerning long-term plans to address any capacity needs anticipated.

ADMINISTRATIVE RECOMMENDATION

Be It Resolved, That upon the recommendation of the Superintendent of Schools, the Board of Education authorizes the Administration to conduct building capacity studies for all schools, with special emphasis on Staples High School.

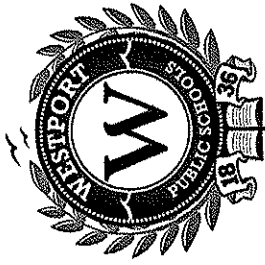
A handwritten signature in black ink, appearing to read "Elliott", with a long horizontal stroke extending to the right.



**WPS Financial Performance Objectives
Driving Proficiency with Productivity and Efficiency
Through Benchmarking and Best Practice**

Board Of Education Meeting

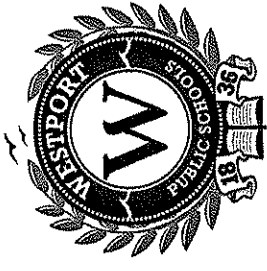
Monday April 28, 2014



**The most
dangerous phrase
in the language is “we’ve
always done it this way”**

Rear Admiral Grace Hopper

WPS BOARD OF EDUCATION
*Leadership in Education, Learning and
Continuous Improvement*



The first rule of creative thinking and creative problem solving ...

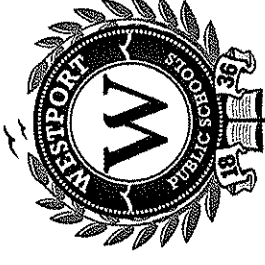
- “Forget what we know” because we don’t really **know** anything. We only **think** you know. What we **think** is determined by what you **believe**. What we **believe** is determined by how we **feel**.
- If we want to be more creative, we need to become more aware of what we think we know and put it aside – to allow ourselves to be more creative.

Source: George Torok, creativity catalyst



WESTPORT 2025 Vision

21st Century Capacities in Teaching and Learning



Board of Education should Embrace and Lead our Vision

- *Critical Thinking (analyze, synthesize, evaluate)*
- *Creative Thinking (ideas, possibility, change)*
- *Communication (thought leadership, inspire action, work collaboratively)*
- *Global Thinking (synthesize perspectives, create original ideas & innovation)*



CONTEXT

Challenge and Opportunity for WPS

Challenge

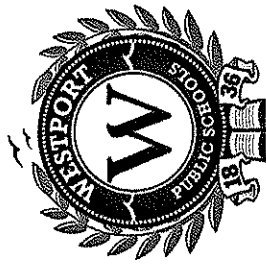
- *To accelerate our academic, cultural, athletic and social agenda*
- *With an annual fiscal budget rate increase of a “real” 3%*

Opportunity

- *Increase proficiency 100% in growth rate, achieve “value” of 6%.*
- *Be more strategic in our planning, setting longer range horizons*
- *Be more proficient in our operations to increase value*
- *Be the cutting edge leader in both education and education management*

CUTTING EDGE POSSIBILITY

Through collaboration and proficiency



Collaboration

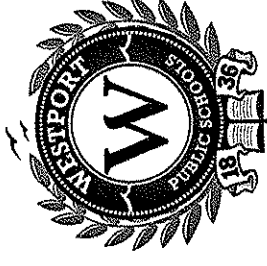
- *Utilize all human and economic resources at our disposal to improve the operational proficiency of WPS – our town, our community, our students*

Proficiency

- *Build methodology to gather data and develop a robust situation analysis*
- *Set performance objectives (quantitative targets) in productivity and efficiency*
- *Develop strategy (how) to achieve our performance objectives*
- *Drive both productivity and efficiency initiatives*

OPERATIONAL PROFICEINCY

Doing More with Less



PRODUCTIVITY

- Quantity
- Doing more with the same
- More output
- Produce more

Example: teach 6,000 students
For \$109,200k vs 5,700 = 5.3%
productivity

EFFECIENCY

- Quality
- Doing the same with less
- Less resources
- Reduce cost

Example: we teach 5,700 students for
\$105,200 vs \$109,200 = 3.7% efficiency



USING BENCHMARKING

To Achieve Operational Proficiency

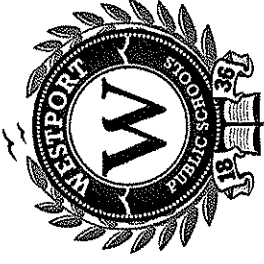
The Objectives of Benchmarking:

- to find examples of superior performance
- to understand the processes and practices driving that performance
- to improve performance by tailoring and incorporating best practices
- to innovate, not imitate

The Results of Benchmarking:

- Improved performance various methods
- Understanding relative cost position comparative cost analysis
- Increasing the rate of organizational learning new ideas
- Validating the current model comparative model analysis

Source: Bain Capital



COST PER STUDENT

WPS Efficiency of \$1,000 CPS is 5.5% = \$5.7 million

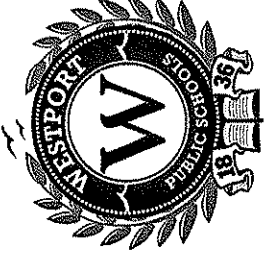
source: Connecticut Department of Education November 2013

- New Canaan, Wilton, Darien and Ridgefield have comparable ADM at 4,220, 4,296, 4,874 and 5,287 respectively compared to Westport at 5,762 yet they are at \$17.4k, \$16.5k, \$16.2k and \$15.2 vs WPS at \$18.2
- \$1,000 CPS to \$3,000 CPS lower delta vs relatively similar size districts

	2011-2012	2012-2013	Increase
Redding	\$ 17,980	\$ 19,020	5.8%
Weston	\$ 18,141	\$ 18,927	4.3%
Region 9	\$ 18,433	\$ 18,718	1.5%
Westport	\$ 17,636	\$ 18,173	3.0%
Greenwich	\$ 17,917	\$ 18,165	1.4%
New Canaan	\$ 17,115	\$ 17,443	1.9%
Wilton	\$ 16,550	\$ 16,816	1.6%
Darien	\$ 16,185	\$ 16,719	3.3%
Easton	\$ 15,738	\$ 16,268	3.4%
Ridgefield	\$ 14,519	\$ 15,428	6.3%

Redding	\$19,020
Weston	\$18,927
Region 9	\$18,718
Westport	\$18,173
Greenwich	\$18,165
New Canaan	\$17,443
Wilton	\$16,816
Darien	\$16,719
Easton	\$16,268
Ridgefield	\$15,428

\$:	\$2,000	\$4,000	\$6,000	\$8,000	\$10,000	\$12,000	\$14,000	\$16,000	\$18,000	\$20,000
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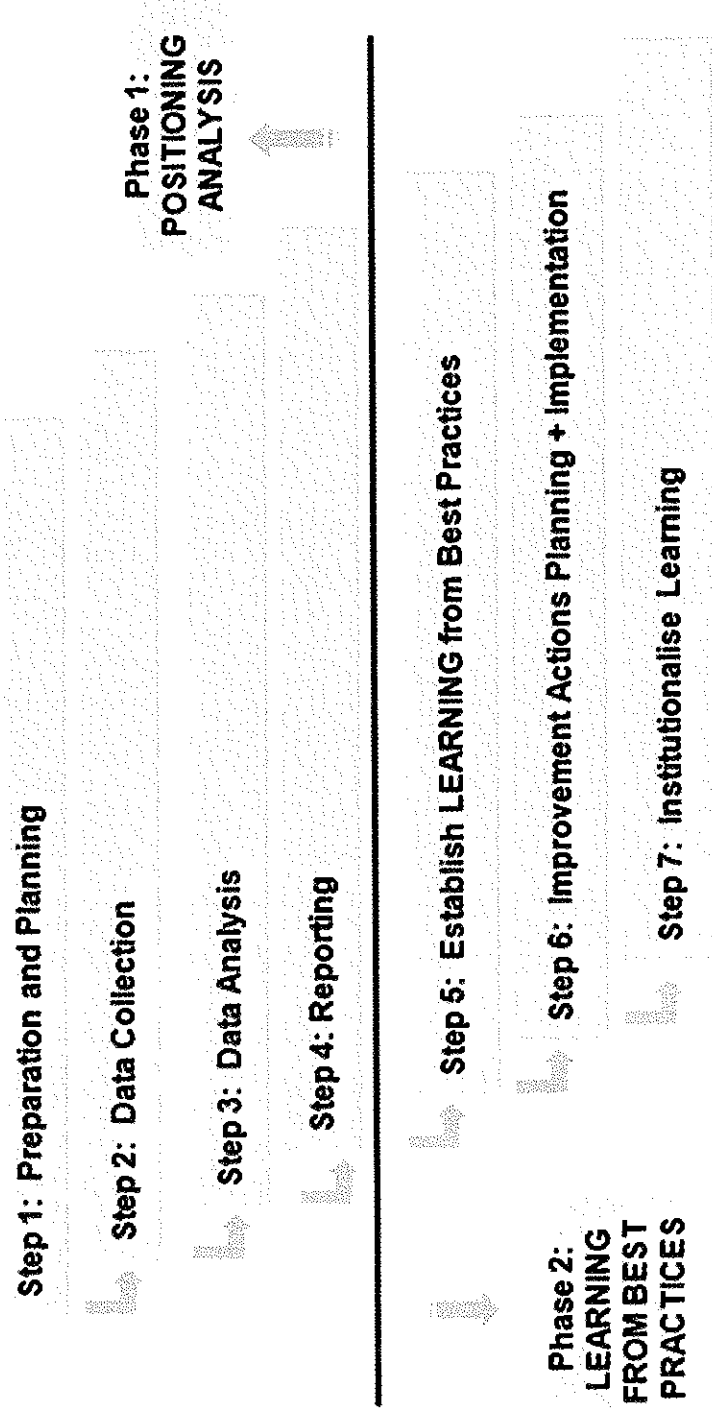


PROPOSED ACTIONS

1. Adopt a 3 year long range plan (LRP) process
2. Establish strategic performance objectives in the LRP
3. Set an objective of 50% to 100% proficiency of fiscal budget increase
4. FYE 2016 increase at 2.5% = \$2.7 million. Target proficiency of \$1.35 to \$2.7
5. Hire a graduate student, either part time as a student, or a graduate thesis
6. Budget \$12,000 (\$3k per quarter) for the project and cost of the student
7. Use this process and strategic objective as a real 2025 example for WPS
8. Establish Quarterly reviews for the FYE 2016 budget & long range plan (LRP)

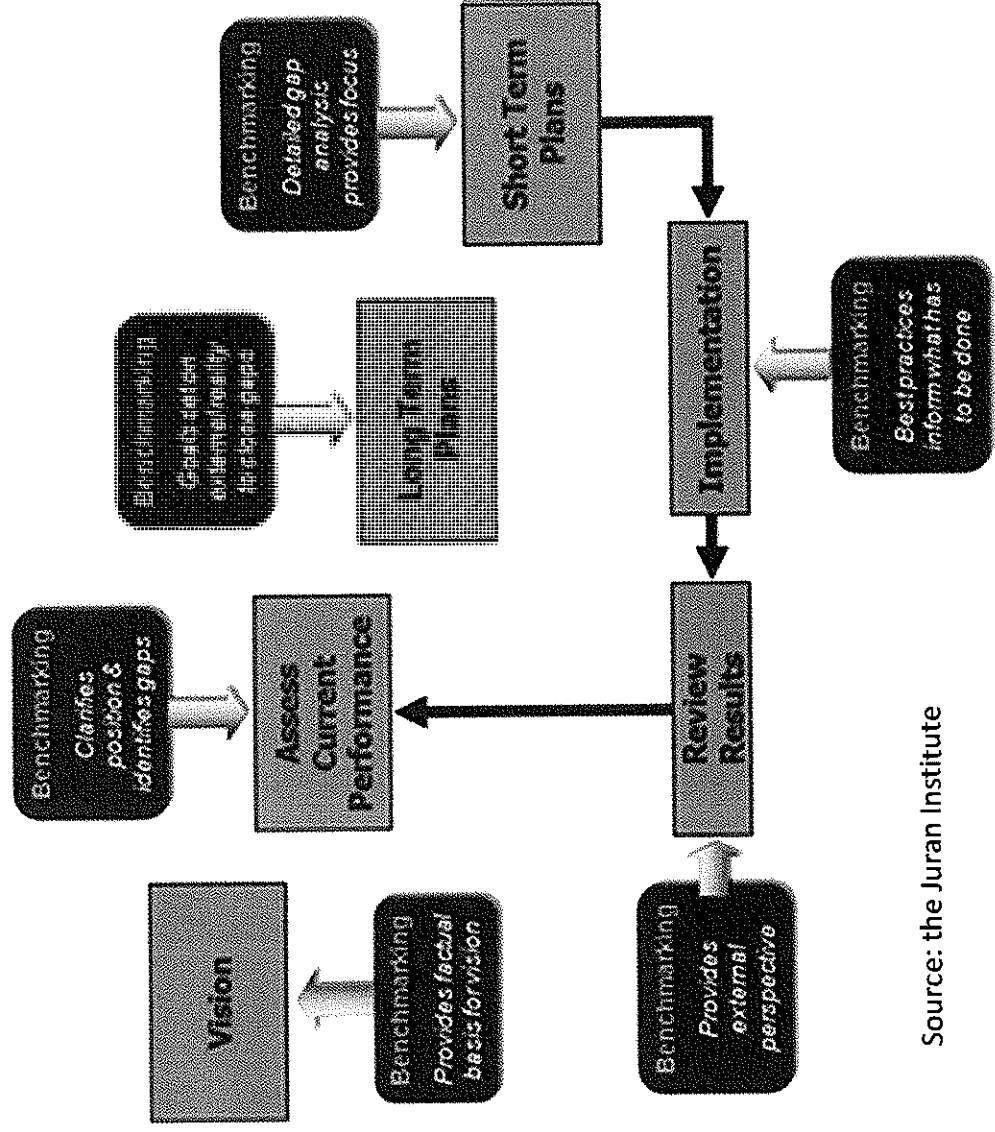
appendix

What Does a Benchmark Process Look Like?



Source: the Juran Institute

Benchmarking and Performance – Long Range Planning (LRP)



Source: the Juran Institute

Seven Steps to Benchmarking?

- **Step 1: Preparation and planning.** Determine the methodology and set a clear action plan.
- **Step 2: Data collection.** What to measure and how to measure it. Establish metrics.
- **Step 3: Data analysis.** Data normalization to enable like comparisons.
- **Step 4: Reporting.** Analysis reported in a clear, concise, and easily understood format.
- **Step 5: Learning from best practices.** Evaluate best in class and why.
- **Step 6: Planning and implementing improvement actions.** Develop action plan for change that will be needed to realize improvements. Learning points feed into the strategic plan and should be implemented via the performance improvement processes.
- **Step 7: Institutionalizing learning.** The insights gained and the performance improvements achieved must be fully embedded within the organization. All levels must be linked via a cascading series of goals to ensure systematic progress toward the vision.

Source: the Juran Institute