

Special Education Services in Ontario School District

Ontario School District (OSD) is proud of the quality of our special education services. Highly qualified, committed, and talented teachers, para-professionals, and administrators serve students with disabilities throughout the district. Our special education program is carefully coordinated with the general education program, services to our English Language Learners, and to our Title 1A program.

The following underlying assumptions guide the organization and provision of special education in our district:

1. Special education is a service that should be brought to students in the typical environments in which they would be educated if they did not have a disability.
2. Students with disabilities should have exposure to the rich curricular, instructional, and social opportunities of the general education system.
3. Students with disabilities should be held to rigorous academic standards.
4. Families are essential partners in making educational decisions for students.
5. Accountability for meaningful progress is an essential component of all special education programs.

Nearly all students with disabilities in OSD are educated at their home schools. They receive a full range of appropriate special education and related services, both in the general education setting and in pull out small groups or individual instruction. This system of inclusive education is dependent upon strong working relationships between general and special education and full support from building administrators.

OSD reviews and revises its special education manual annually to ensure district policy and practice is aligned to state and federal requirements and to assist district personnel in understanding and implementing the Individuals with Disabilities Education Act (IDEA) with integrity.

This special education manual is divided into 16 sections. Each section corresponds to a major content area in special education. Section 1 contains the Organization of Support Services available for all children who attend our schools. Section 2 contains the federal and state definitions of key language in IDEA; with additional definitions found within specific sections to provide further clarification of a content area, when appropriate,. Sections 3 through 16 contain the legal requirements found in Oregon Administrative Rule (based on federal regulations), and district interpretation and guidance to assist with implementation of these legal requirements. Each section also identifies required district forms and resources to further support district personnel in the implementation of the special education process.

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Section 1: Organization of Support Services for all Children

Ontario School District is committed to providing educational and functional support(s) to all students so they may access and progress in the general education environment. Throughout the district, teams of teachers work together to organize instruction in core academic areas to provide students with appropriate instruction. The progress of students who are struggling is monitored frequently and instruction is adjusted based on need. Support programs such as English Language Learner (ELL) programs, Title IA, extended academic programs, and literacy interventions are aligned so that students in need of additional instruction are identified early and are provided with differentiated instruction.

The primary vehicle to achieve this effort is the *Effective Behavior and Instructional Support* (EBIS) program. The key purposes of EBIS are:

1. To review school wide behavior and academic data in order to evaluate the effectiveness of the basic curriculum and instruction that is provided to all students. This basic program is referred to as the “core program.”
2. To determine the fidelity of implementation and effectiveness of supplemental instruction for ALL students.
3. To screen and identify students needing additional academic and/or behavior support.
4. To plan, implement, and modify interventions for these students. Depending on each student’s progress, referral for special education may occur.
5. To document the student’s “response to intervention,” the core evaluation component for students suspected as having a Specific Learning Disability (SLD).

EBIS is a structured, systematic team process. It differs from a traditional “pre referral” approach in the following ways:

1. Teams use screening data to look at the progress of all students in the school on a regular schedule (Fall, Winter, and Spring).
2. Teams use standard “decision rules” to decide which students need additional instruction.
3. Teams use standard “decision rules” to decide the type and amount of instruction students need.
4. All supporting programs work together to make these decisions and evaluate the effectiveness of programming.
5. It is important to note that the EBIS approach requires teams of professionals to work together to identify students who are struggling rather than waiting for a parent or teacher to make a referral. Experience tells us that this approach assures earlier identification and provision of appropriate programming. Detailed information about the EBIS process is found in the resource section of this manual under “*EBIS*”. Since this process is essential to the child find process in OSD, and to the identification of students with learning disabilities, it is imperative that special educators understand and work to support the EBIS process.

Students who are likely to be identified through the EBIS process:

Typically, students who have “hidden” disabilities such as learning disabilities, communication disorders (other than articulation), health impairments like attention deficit disorder, and emotional disturbances will be successfully identified by the EBIS team in the building. The EBIS system uses data that is sensitive to these kinds of disorders including screening for phonemic awareness development, statewide assessment scores, progress monitoring data, behavior and attendance referrals, and progress report data. Using data allows for earlier identification. It also prevents several problems common to special education referral such as referral bias (e.g. gender and ethnic over- or under- referral rates), or individual teacher differences in decisions on when to make a referral. The “response to intervention” (RTI) approach is only used as a formal evaluation measure as part of SLD evaluations. However, the approach of using interventions like classroom accommodations and behavior programs can assist in reliable decision making of the other disabling conditions listed above.

Students who will not be identified through the EBIS process:

Students who have more obvious disabilities such as an intellectual disability, sensory impairments, health impairments like chronic illnesses, traumatic brain injury, or autism will almost always be identified in Early Childhood Special Education or referred directly to the Referral Management Team (RMT) in the school. Similarly, older students who move into the district with serious skill deficits may be referred to the RMT. In these cases the RMT may coordinate with the EBIS team to provide individualized academic interventions and the use of the problem-solving approach to best determine the cause of the student’s difficulties.

Section 2: IDEA/OAR Definitions

Oregon Administrative Rule (OAR) definitions assist district personnel and parents in understanding special education terminology used in IDEA. All district personnel should review the definitions listed below to ensure they have a clear understanding of the terminology and can assist parents in understanding the special education process.

581-015-2000 – Definitions (revised 3/22/12)

The definitions below apply to OARs 581-015-2000–2999, unless the context indicates otherwise.

(1) **"Adult student"** is a student for whom special education procedural safeguard rights have transferred as described in OAR 581-015-2325.

(2) **"Assistive technology device"** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(3) **"Assistive technology service"** means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(4) **"Children with disabilities" or "students with disabilities"** means children or students who require special education because of: autism; communication disorders; deafblindness; emotional disturbances; hearing impairments, including deafness; intellectual disability; orthopedic impairments; other health impairments; specific learning disabilities; traumatic brain injuries; or visual impairments, including blindness.

(a) **"Autism"** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child's educational performance. Other characteristics that may be associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Essential features are typically but not necessarily manifested before age three. Autism may include autism spectrum disorders such as but not limited to autistic disorder, pervasive developmental disorder, not otherwise specified, and Asperger's syndrome. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. However, a child who qualifies for special education under the category of autism may also have an emotional disturbance as a secondary disability if the child meets the criteria under emotional disturbance.

(b) **"Communication Disorder"** means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of a spoken or other symbol system that adversely affects educational performance. The language impairment may be manifested by one or more of the following components of language: morphology, syntax, semantics, phonology, and pragmatics.

(c) **"Deafblindness"** means having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for students having hearing or visual impairments

(d) **"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 a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to 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;
- (F) The term includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.
- (e) "**Hearing Impairment**" means a hearing condition, whether permanent or fluctuating, that adversely affects a child's educational performance. The term includes those children who are hard of hearing or deaf.
- (f) "**Intellectual Disability**" means significantly sub average general intellectual functioning, and includes a student whose intelligence test score is two or more standard deviations below the norm on a standardized individual intelligence test, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and that adversely affects a child's educational performance.
- (g) "**Orthopedic Impairment**" means a motor disability that adversely affects the child's educational performance. The term includes impairments caused by an anomaly, disease or other conditions (e.g., cerebral palsy, spinal bifida, muscular dystrophy or traumatic injury).
- (h) "**Other Health Impairment**" means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that:
- (A) Is due to chronic or acute health problems (e.g. a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, attention deficit disorder, attention deficit hyperactivity disorder, leukemia, Tourette's syndrome or diabetes); and
- (B) Adversely affects a child's educational performance.
- (i) "**Specific Learning Disability**" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disability includes conditions such as perceptual disabilities, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage.
- (j) "**Traumatic Brain Injury**" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.
- (k) "**Visual Impairment**" means a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes those children who are partially sighted or blind.
- (5) "**Consent**" means that:
- (a) The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;
- (b) The parent or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought; and the consent describes that activity and lists any records that will be released and to whom; and
- (c) The parent or adult student understands that the granting of consent is voluntary and may be revoked at any time in accordance with OAR 581-015-2090(4) or 581-015-2735.
- (6) "**Day**" means calendar day unless otherwise indicated as:
- (a) "Business day," which means Mondays through Fridays, other than holidays; or as
- (b) "School day," which means any day, including partial days that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including those with and without disabilities.
- (7) "**Department**" means the Oregon Department of Education.
- (8) "**EI/ECSE**" means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.
- (9) "**Elementary or secondary school or facility**" means a school or facility with any combination of grades K through 12.
- (10) "**Evaluation**" means procedures used to determine whether the child has a disability, and the nature and extent of the special education and related

services that the child needs.

(11) **"General education curriculum"** means the same curriculum as for children without disabilities. For preschool children with disabilities, the term means age-appropriate activities.

(12) **"Health assessment statement"** means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant must be practicing within his or her area of specialty.

(13) **"Homeless children"** (or "homeless youth") has the same meaning as in section 725 of the McKinney-Vento Act, 42 USC § 11434a(2).

(14) **"Identification"** means the process of determining a child's disability and eligibility for special education and related services.

(15) **"Individualized Education Program"** (IEP) means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.

(16) **"Individualized Family Service Plan"** (IFSP) is defined in OAR 581-051-2700.

(17) **"Limited English proficient"** has the same meaning as in the Elementary and Secondary Education Act, 20 USC § 9101(25).

(18) **"Mediation"** means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such a time as a resolution is agreed to by the parties or the mediation process is terminated.

(19) **"Medical statement"** means a written statement issued by a physician licensed by a State Board of Medical Examiners.

(20) **"Native language"**, when used with respect to a person who is limited English proficient, means the language normally used by that person or, in the case of a child, the language normally used by the parent of the child. For an individual with deafness, blindness, deafblindness or no written language, the term means the mode of communication normally used by the person (such as sign language, Braille, or oral communication). In direct contact with a child, the term means the language normally used by the child.

(21) **"Parent"** means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

(22) **"Participating agency"** means a state or local agency, other than the school district responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

(23) **"Personally identifiable information"** means information as defined in the Family Educational Rights and Privacy Act (FERPA), found at 34 CFR 99.3, which includes, but is not limited to:

(a) The name of the child, the child's parent or other family member;

(b) The address of the child or the child's family;

(c) A personal identifier, such as the child's social security number or student number, or biometric record; and

(d) Other indirect identifiers, such as the child's date of birth, place of birth, and mother's maiden name;

(e) Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the school community, who does not

have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or

(f) Other information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(24) **"Placement"** means educational placement, not social service placement by a state agency.

(25) **"Preschool child"** means "preschool child with a disability" as defined under OAR 581-015-2700.

(26) **"Private school"** means an educational institution or agency not operated by a public agency.

(27) **"Public agency"** means a school district, an education service district, a state agency or institution, EI/ECSE contractor or subcontractor, responsible for early intervention, early childhood special education or special education.

(28) **"Related services"** includes transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling services, including rehabilitation counseling services, social work services in schools, parent counseling and training, school health services and medical services for diagnostic or evaluation purposes, and includes early identification and assessment of disabling conditions in children. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(29) **"School age child or children"** means a child or children who have reached 5 years of age but have not reached 21 years of age on or before September 1 of the current school year.

(30) **"Scientifically Based Research"** is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended ESEA.

(31) **"School district"** means the public education agency (school district, ESD, or state agency) that is responsible by statute, rule or contract for providing education to children with disabilities.

(32) **"Services plan"** is defined in OAR 581-015-2450.

(33) **"Short term objectives"** means measurable intermediate performance steps that will enable parents, students and educators to gauge, at intermediate times during the year, how well the child is progressing toward the annual goals by either:

(a) Breaking down the skills described in the goal into discrete components, or

(b) Describing the amount of progress the child is expected to make within specified segments of the year.

(34) **"Special education"** means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability "Special education" includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and

(b) May involve physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(35) **"Specially designed instruction"** means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

(a) To address the unique needs of the child that result from the child's disability; and

(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(36) **"Supplementary aids and services"** means aids, services and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

(37) **"Superintendent"** means the State Superintendent of Public Instruction or the designee of the State Superintendent of Public Instruction.

(38) **"Surrogate parent"** means an individual appointed under OAR 581-015-2320 for school age children or 581-015-2760 for preschool children who acts in place of a biological or adoptive parent in safeguarding a child's rights in the special education decision-making process.

(39) **"Transition services"** means a coordinated set of activities for a student with a disability that:

- (a) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- (b) Is based on the individual student's needs, taking into account the student's preferences and interests; and
- (c) Includes:
 - (A) Instruction;
 - (B) Related services;
 - (C) Community experiences;
 - (D) The development of employment and other post school adult living objectives; and
 - (E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and
- (d) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

(40) **"Ward of the state"** means child who is in the temporary or permanent custody of, or committed to, the Department of Human Services or Oregon Youth Authority through the action of the juvenile court.

Stat. Auth.: ORS 343.041, 343.045, 343.155 & 343.223 Stats. Implemented: ORS 343.045, 343.155, 343.223, 34 CFR 99.3, 34 CFR 300.5, 300.6, 300.8, 300.11, 300.15, 300.19, 300.22, 300.27, 300.28, 300.29, 300.30, 300.34, 300.37, 300.39, 300.42, 300.43 & 300.45 Hist.: 1EB 8-1978, f. & ef. 3-3-78; 1EB 35-1978, f. & ef. 10-5-78; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 5-1985, f. 1-30-85, ef. 1-31-85; EB 39-1988(Temp), f. & cert. ef. 11-15-88; EB 18-1989, f. & cert. ef. 5-15-89; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 9-1993, f. & cert. ef. 3-25-93; EB 18-1994, f. & cert. ef. 12-15-94; EB 22-1995, f. & cert. ef. 9-15-95; ODE 10-2000, f. & cert. ef. 5-3-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0005, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 13-2009, f. & cert. ef. 12-10-09

581-015-2400: Discipline Definitions

For the purposes of the IDEA Discipline provisions found in OAR 581-015-2400 through 581-015-2445, the following definitions apply:

- (1) **"Behavioral intervention plan"** means an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.
- (2) **"Current educational placement"** means the type of educational placement of the child as described in the child's "annual determination of placement" document at the time of the disciplinary removal. It does not mean the specific location or school but the type of placement on the continuum of placement options (e.g. regular classroom with support; regular classroom with resource room support; special class; special school; home instruction, etc.).
- (3) **"Disciplinary removal"** means suspension, expulsion, or other removal from school for disciplinary reasons, including removals for mental health examinations for students who threaten violence or harm in public schools under ORS 339.250(4)(b)(C). It does not include:
 - (a) Removals by other agencies;
 - (b) Removals for public health reasons (e.g. head lice, immunizations, communicable diseases, etc.);
 - (c) In-school suspensions if the child continues to have access to the general curriculum and to special education and related services as described in the child's IEP, and continues to participate with nondisabled children to the extent they would in their current placement; or
 - (d) Bus suspensions, unless the student's IEP includes transportation as a related service, the district makes no alternative transportation arrangements for the student, and the student does not attend school as a result of the bus suspension.
- (4) **"Functional behavioral assessment"** means an individualized assessment of the student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.
- (5) **"Suspension"** means any disciplinary removal other than expulsion.

581-015-2450: Definitions for parentally placed private school children

For the purposes of OAR 581-015-2450 through 581-015-2515, the following definitions apply:

- (1) **"Enrolled in a public school or ECSE program"** means enrolled in, attending, and, for children ages 7 to 18, not exempt from compulsory school attendance as a private school student.
- (2) **"IDEA funds"** means federal funds allocated to the public agency under the Individuals with Disabilities Education Act.
- (3) **"Private school child with a disability"** means a child with a disability or preschool child with a disability aged 3 to school-age who has been enrolled by a parent in a private school or facility, and who, if aged 7 to 18, is exempt from compulsory school attendance under ORS 339.115.
 - (a) This term includes school-age children who are exempt from compulsory school attendance under ORS 339.115, even if a school district permits the student to attend one or more classes pursuant to a district policy permitting partial enrollment.
 - (b) This term does not include:
 - (A) Children three years of age until the age of eligibility for public school who can be provided a free appropriate public education in a private preschool or child care setting selected and paid for by their parents; or
 - (B) Children who are exempt from compulsory school attendance under ORS 339.115 as a home schooled student; or
 - (C) Children who are not of compulsory school attendance age who have rejected public agency services but who are not attending a private school; or
 - (D) Children who are placed in a private school by the public agency.
- (4) **"Private school"** means a private elementary or secondary school or facility, including a private religious school. A preschool is considered a private school under this provision only if it is part of a private elementary or secondary school.
- (4) **"Public agency"** means:
 - (a) For school-aged children, the school district where the private elementary or secondary school is located; and
 - (b) For children aged 3 up to school-age, the EI/ECSE contractor where the private elementary school or secondary school is located.
- (5) **"Services plan"** means a written statement that describes the special education and related services the school district will provide to a parentally-placed private school child with a disability who has been designated to receive services, including the location of services and any transportation necessary, consistent with OAR 581-015-2460. Unlike an IEP or IFSP, a service plan does not need to provide a free appropriate public education.

581-015-2540: Definitions for Regional Programs

The following definitions apply to OAR 581-015-2545 through 581-015-2565 unless otherwise indicated by the context.

- (1) **"Administrative Unit"** means the school district or ESD within each region chosen to operate the regional program through contract with the Department of Education.
- (2) **"Consultation services"** means technical assistance to or conferring with the local education agency and staff or early intervention/early childhood special education providers and staff or families to assist them to provide services to eligible children.
- (3) **"Department"** means the Oregon Department of Education.
- (4) **"Direct services"** means services provided to the child by regional specialists.
- (5) **"Eligible children"** means children with low-incidence, high need disabilities who need the services of the regional program.
- (6) **"Low incidence, high need disabilities"** means one or more of the following categories under OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury, and vision impairment. A child with an orthopedic impairment is eligible for regional services only if determined to be severely orthopedically impaired by his/her eligibility team based on eligibility tool(s) approved by the Department.
- (7) **"Regional program"** means direct or consultative services funded through the Department provided on a single or multi-county basis that assist school districts and early intervention/ early childhood special education providers in meeting the unique needs of eligible children.
- (8) **"Services"** means early intervention services, early childhood special education and/or related services, and special education and/or related services, as defined in 581-015-2700 and OAR 581-015-2000, respectively.
- (9) **"Superintendent"** means the State Superintendent of Public Instruction.

<p style="text-align: center;">Oregon Administrative Rule (OAR)</p> <p style="text-align: center;">Section 3: Child Find/ Referral</p>	<p style="text-align: center;">District Interpretation and Guidance</p>
<p>581-015-2080 Revised 3/22/12 Child Find (1) The requirements of this rule apply to all children unless they are no longer entitled to a free appropriate public education under OAR 581-015-2040 – 581-015-2050. (2) School districts must identify, locate and evaluate all resident children with disabilities, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including: (a) Highly mobile children with disabilities (such as migrant and homeless children); (b) Children who are wards of the state; (c) Indian preschool children who reside on reservations; (d) Children who are suspected of having a disability even though they are advancing from grade to grade; (e) Children enrolled in public charter schools; (f) Children who are home schooled; (g) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and (h) Children above the age of compulsory school attendance who have not graduated with a regular high school diploma. (3) For purposes of this rule, residency is determined in accordance with ORS chapter 339, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with ORS chapter 338. The district in which the charter school is located is responsible for child find for students enrolled in the charter school regardless of parental resident district. (4) The district in which the private school is located is responsible for conducting child find activities for all children enrolled in the private school, in accordance with OAR 581-015-2085, regardless of parental resident district. (5) The lead agency as defined in OAR 581-015-2700(20) and its contractors provides a public awareness program that: (a) Prepares and disseminates information on the availability of early intervention and other services, as described in paragraph (b) of this section, to all primary referral sources (especially hospitals and physicians). The</p>	<p>OSD is obligated under IDEA to identify, locate, and evaluate all infants, preschoolers, and students with disabilities (birth-21) who reside in the district. When a school age child is located, the district must assist the parent, teacher, or person who suspects the student has a disability with referral to the appropriate school in the district for consideration for evaluation. If a child age birth to 5 is located, the district refers the child to the MESD EI/ECSE program for consideration for evaluation (the district meets its' Child Find obligation through contract with the ESD for services to children who are not yet school age).</p> <p>It is the responsibility of the school principal to ensure the special education department in each building provides information and training to staff regarding guidelines for making referral and how to recognize characteristics of disabilities.</p> <p>Who can make a referral? Under Child Find, parents, classroom teachers, school administrators, counselors, or other professionals in the community who have a legitimate interest in the welfare of a child can make a referral.</p> <p><input type="checkbox"/> Parent initiated referral: Parents have a right to have their child considered for evaluation for special education if they suspect their child has a disability. Most parents however, will need district assistance in understanding how to proceed with this request. This assistance should include explanation of the interventions that can be attempted before making a special education referral (refer to section 1 of this manual and the district EBIS Handbook for further information). If a parent requests an evaluation and through consultation agrees to a period of academic and/or behavioral intervention, document these decisions on a <i>Prior Notice of Special Education Action Form</i>.</p> <p>It is important that interventions are not be presented in a way that might be viewed by the parent as a barrier to a special education evaluation. When there is evidence of a suspected disability from sources such as a physician's report, previous school report, therapist report, etc., the building Referral Management Team (RMT) should proceed with evaluation planning.</p> <p><input type="checkbox"/> School personnel initiated referral: If a school employee suspects a student has a disability they should initiate a referral for special education and notify the student's parents that a referral is being made. In these situations, the school employee should involve the school counselor or classroom teacher to ensure proper procedures are followed and the appropriate information is collected.</p> <p><input type="checkbox"/> EBIS referral: A student may be referred by the EBIS team after all EBIS</p>

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	<p>processes have been followed and group and individual interventions in regular education settings have been attempted over time and determined insufficient to bring about adequate educational or behavioral performance. Parents must always be notified of these processes and interventions.</p>
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Oregon Administrative Rule (OAR)	
<p>information is to be given to:</p> <p>(A) Parents with infants and toddlers;</p> <p>(B) Parents with premature infants;</p> <p>(C) Parents with infants that have physical risk factors associated with learning or developmental complications; and</p> <p>(D) Parents of toddlers with disabilities, regarding services available to them on their child's third birthday, no fewer than 90 days prior to the toddler's third birthday.</p> <p>(b) Has procedures for assisting primary referral sources to disseminate information on the availability of early intervention services to parents of infants or toddlers with disabilities. This information includes:</p> <p>(A) A description of the availability of early intervention services;</p> <p>(B) A description of the child find system and how to refer a child under age three for an evaluation or early intervention services; and</p> <p>(C) A central directory as defined in OAR 581-015-2713.</p> <p>(6) The lead agency must coordinate child find efforts with all other major State efforts to locate and identify children by other State agencies relevant to early childhood or educational or developmental needs.</p> <p>Stat. Auth.: ORS 343.041, 343.045, 343.157</p> <p>581-015-2085 Child Find for Children attending Private Schools</p> <p>(1) Each school district must locate, identify and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located within the boundaries of the school district.</p> <p>(2) The child find process for parentally-placed private school children must be designed to ensure the equitable participation of parentally-placed private school children with disabilities and an accurate count of such children.</p> <p>(3) The school district's child find activities for parentally-placed private school children must be similar to, and completed within a comparable time period, to child find activities for public school children with disabilities.</p> <p>(4) The cost of implementing child find activities, including</p>	<p>When should a referral be submitted?</p> <p><i>A Referral to Special Education</i> should be made:</p> <p>1) When a district employee or a parent suspects a disability is preventing a student from benefiting from education.</p> <p>2) When a new student enrolls at a school and something in the enrollment process indicates the student has received special education services at a previous school or program. As part of the enrollment process district personnel responsible for enrollment ask the parent and/or student whether the student has received special education services in the past. If the parent and/or student indicate the student has received special education services, the district requests documentation of eligibility and service provision from the previous district and notifies the Learning Specialist in the building who conducts a complete file review.</p> <p>3) When a child who is 5 years old on September 1 is transitioning from Early Childhood Special Education (ECSE) to kindergarten. These students are considered new students in the district. The child's eligibility must be checked to see that it meets all the state requirements of a school age disability in Oregon. If the child's current eligibility is Developmentally Delayed (DD), the evaluation and eligibility process must be completed as Oregon Administrative Rule does not extend the DD category into school age. All other disability categories are recognized as school aged and the eligibility may be accepted as long as it is still current. If the child is currently eligible under a school age disability category a district team reviews all current information about the child and determines if there are any new concerns that would require a new evaluation. If a new evaluation <i>is not</i> necessary because the child is eligible under a school age disability category, the eligibility is still current, and there are no new concerns that warrant an evaluation, check the date of the current eligibility and note when the child will be required to be re-evaluated for their 3- year reevaluation.</p> <p>4) When a variety of interventions have already been implemented and documented in attempt to address the student's difficulties AND the interventions have not succeeded, a referral for a special education evaluation should be made. Parents should always be notified and involved in accordance with the district EBIS protocols and process.</p>

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<p>individual evaluations, may not be considered in determining whether a school district has met its obligations to spend a proportionate share under OAR 581-015-2470.</p> <p>(5) These child find requirements apply to all parentally-placed private school children, including those children who are residents of another state.</p> <p>(b) Each school district must consult with appropriate representatives of private school children with disabilities on how to carry out these activities, in accordance with OAR 581-015-2480.</p>	<p>To Whom is a Referral Submitted? For school age children, referrals are submitted to the special education department at each school. Referrals for children birth to age 5 are submitted to the OSD EI/ECSE program.</p> <p>What is the referral process for school age children? Upon receipt of a referral, the referral case-manager:</p> <ol style="list-style-type: none"> 1. Creates a blue file on the student and collects all existing data to be considered by the evaluation planning team; 2. Places an Alternative Learning Options sticker (<i>Cumulative File Sticker</i>) on the student's cumulative file to indicate a new file has been created. 3. Provide the parent with the Parents Rights for Special Education Handbook; and, 4. Schedules an evaluation planning team meeting and sends out a meeting notice to all team members, including the parents. <p><i>Under no circumstances should the school “decide” whether to proceed with an evaluation without offering the parent the opportunity to attend the meeting or to participate through alternate means.</i> During the referral process the Case manager is the main contact for the parent.</p>

<p>Required district forms: The forms listed below are required at certain times or for certain actions as part of Child Find and referral for special education process. Not all forms will be required for every student. District referral forms may be printed from the district website or obtained from the special education staff or counselor in each building.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Parent Notification for Special Education Initial Evaluation Referral; <input type="checkbox"/> Referral for Special Education; <input type="checkbox"/> OT/PT referral form; <input type="checkbox"/> Notice of Team Meeting <input type="checkbox"/> Minutes of Evaluation Planning Meeting; <input type="checkbox"/> <i>Prior Notice about Evaluation/ Consent for Evaluation;</i> <input type="checkbox"/> Prior Notice of Special Education Action; <input type="checkbox"/> Prior Notice and Consent for Initial Provision of Special Education; <input type="checkbox"/> <i>Eligibility Determination (by disability);</i> <input type="checkbox"/> Parents Rights for Special Education Handbook; <input type="checkbox"/> <i>Authorization for Release of Information form</i>

Section 4: Evaluation	
<p>581-015-2100 Responsibility for Evaluation and Eligibility Determination</p> <p>(1) For school-age children, school districts and juvenile and adult corrections education programs are the public agencies responsible for evaluating children and determining their eligibility for special education services.</p> <p>(2) For preschool children,</p> <p>(a) School districts are responsible for the eligibility evaluations of children for EI/ECSE services.</p> <p>(b) Designated referral and evaluation agencies are responsible for determining the eligibility of children for EI/ECSE services.</p> <p>(c) EI/ECSE programs are responsible for conducting any necessary evaluations other than for eligibility determination.</p> <p>581-015-2105 Evaluation and Reevaluation Requirements</p> <p>(1) General: A public agency must conduct an evaluation or reevaluation process in accordance with this rule and 581-015-2110 before:</p> <p>(a) Determining that a child is a child with a disability under OAR 581-015-2130 through 581-015-2180;</p> <p>(b) Determining that a child continues to have a disability under OAR 581-015-2130 through 581-015-2180;</p> <p>(c) Changing the child's eligibility, or</p> <p>(d) Terminating the child's eligibility as a child with a disability, unless the termination is due to graduation from high school with a regular diploma or exceeding the age of eligibility for a free appropriate public education under OAR 581-015-2045.</p> <p>(2) Request for initial evaluation: Consistent with the consent requirements in OAR 581-015-2090, a parent or public agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.</p> <p>(3) When initial evaluation must be conducted:</p> <p>(a) An initial evaluation must be conducted to determine if a child is eligible for special education services when a public agency suspects or has reason to suspect that:</p> <p>(A) The child has a disability that has an adverse impact</p>	<p>The district is responsible for ensuring the evaluation process is completed for all resident school-age children who have been referred for special education and related services, meeting all content, process, and timeline requirements.</p> <p>OSD is also responsible for ensuring the evaluation process is completed for all resident children referred for Early Intervention/Early Childhood Special Education (EI/ECSE) services. The district meets this obligation through direct referral to the MESD, who conducts evaluations on behalf of the district for children, birth to age 5.</p> <p>The <i>purpose of evaluation</i> under the IDEA is to determine if the child is a child with a disability and to determine the educational needs of the child. The <i>focus of the evaluation</i> is on the student and the difficulties the student is having in school. While it is required that all criteria for the disability category being considered are addressed, this should not be the sole function of the evaluation process. It is equally important to gather comprehensive information regarding a child's educational needs for the purpose of eligibility determination and program planning.</p> <p>It is very important to understand that when we conduct an evaluation, it is an evaluation of a child—the whole child and all aspects of the child's functioning as they relate to the student's performance in school. If you find yourself saying "we are doing an LD evaluation" (or ID, ASD, or other disability category), then the team has lost sight of the multiple purposes of the evaluation.</p> <p>When is the district required to conduct an evaluation process?</p> <p>The district is required to conduct an evaluation process prior to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Determining initial eligibility (which would include a student who has moved to Oregon from another state); <input type="checkbox"/> Determining continuing eligibility; <input type="checkbox"/> Changing a child's eligibility, (even if prior to the three year reevaluation timeline); <input type="checkbox"/> Terminating eligibility, unless the termination is due to graduation from high school with a regular diploma or exceeding the age of eligibility for FAPE. <input type="checkbox"/> If the district determines that the educational or related services needs, including improved academic achievement and functional performance of the child warrant a reevaluation; <input type="checkbox"/> If the child's parents or teacher requests an evaluation; <input type="checkbox"/> At least once every three years unless the parent and district agree in writing that evaluation is not necessary (using <i>the Written Agreement form</i>). Prior to entering into a written agreement with the parent to not evaluate the case manager must first convene an evaluation planning team to meet and determine there is existing information determined by the team to be a current measure of the child's ability and

on the child's educational performance; and
 (B) The child may need special education services as a result of the disability.
 (b) The public agency must designate a team to determine whether an initial evaluation will be conducted.
 (A) The team must include the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.
 (B) The team may make this decision without a meeting. If a meeting is held, parents must be invited to participate in accordance with OAR 581-015-2190.
 (4) Reevaluation:
 (a) The public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with OAR 581-015-2115, subject to subsection (b) and OAR 581-015-2110(2):
 (A) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 (B) If the child's parents or teacher requests a reevaluation.
 (b) A reevaluation for each child with a disability:
 (A) May occur not more than once a year, unless the parent and public agency agree otherwise; and
 (B) Must occur at least every three years, unless the parent and public agency agree that a reevaluation is unnecessary.
 (5) Summary of Achievement and Performance: For a student whose eligibility terminates due to graduation with a regular diploma or exceeding the age of eligibility, a school district must provide the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals.

581-015-2110: General Evaluation and Reevaluation Procedures

(1) Evaluation planning. Before conducting any evaluation or reevaluation, the public agency must conduct evaluation planning in accordance with OAR 581-015-2115.

performance that meets the required criteria for the disability or disabilities being considered.

- ☐ Prior to providing special education and related services, unless the student has transferred into the school district with a current eligibility. There are different procedural requirements for students who move into the district from *within state* and for students who move into the district *from another state*.
- ☐ Prior to a student moving into school from an ECSE program if they are currently eligible under the disability category of Developmental Delay, as this category does not extend to school age in Oregon.

Is the evaluation process different for initial, continuing, changing, and/or terminating eligibility?

No, the *process* is the same.

What is the first step in the evaluation process?

The first step in the evaluation process is an **evaluation planning team meeting** to review existing information to determine the need for evaluation. The IDEA specifies that the team may use any and all existing information on the child, which may include information gathered during screening of all children, information gathered as part of regular instructional and curriculum planning, (including data from any interventions conducted), scores from the Oregon Assessment of Knowledge and Skills, (OAKS), as well as any other information contained in the educational record of the student or provided by the parent. These data, as well as a student's documented progress in different educational programs or interventions will be very helpful to the team in making a decision as to the need for evaluation.

All existing information considered should be documented on the *Minutes of Evaluation Planning Meeting form*. In the case of a student suspected of having a Specific Learning Disability, the information must include the *EBIS Individual Problem Solving Worksheet* and all data related to progress in all areas of concern. The district must ensure that parents have the opportunity to provide input at this stage of the evaluation process. This opportunity must be documented.

Are there required team members for Evaluation Planning?

Yes. The district team responsible for this review is the IEP team with the added requirements that one person is a specialist who is knowledgeable about the needs, evaluation, and education of children with the suspected disability, and one person qualified to conduct individual, diagnostic testing. Parents must be given the opportunity to participate in this meeting. In addition:

- ☐ If a student is an English Language Learner, an ELL teacher must be a member of the

(2) Notice and consent.

(a) Before conducting any evaluation or reevaluation, the public agency must provide notice to the parent in accordance with OAR 581-015-2310 that describes any evaluation procedures the agency proposes to conduct as a result of the evaluation planning process.

(b) Before conducting any evaluation or reevaluation, the public agency must obtain informed written consent for evaluation in accordance with OAR 581-015-2090 and 581-015-2095.

(c) If the public agency refuses an evaluation or reevaluation requested by the parent, the public agency must provide the parent with prior written notice under OAR 581-015-2310.

(d) Parents may challenge the public agency's refusal to conduct a reevaluation under OAR 581-015-2345.

(3) Conduct of evaluation. In conducting the evaluation, the public agency must:

(a) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent that may assist in determining:

(A) Whether the child is a child with a disability under OAR 581-015-2130 through OAR 581-015-2180; and

(B) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(b) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

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

(4) Other evaluation procedures. Each public agency must ensure that:

(a) Assessments and other evaluation materials used to assess a child under this part:

(A) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(B) Are provided and administered in the child's native

evaluation team;

☐ If a student is being considered for the low incidence disability categories of Hearing Impairment or Vision Impairment, the regional program must be included as a member on the evaluation team;

☐ If a student is being considered for Autism Spectrum Disorder, the district Learning Specialist must be included as a member of the evaluation team;

☐ If a student is being considered for Orthopedic Impairment, the district OT/PT specialists must be included on the evaluation planning team; and,

☐ If a student is being considered for Emotional Disturbance, Traumatic Brain Injury, or Intellectual Disability, the District Learning Specialist must be included as a member on the evaluation team.

(NOTE: In any of these instances, a team member may fill more than one role on the team, if qualified).

What happens after evaluation planning is completed?

The evaluation planning team determines one of the following:

☐ Sufficient data/ No need for evaluation or special education required at this time: There is **sufficient** existing data documenting no evidence of need for evaluation or for special education at this time. The Case manager and team completes a *Prior Notice of Special Education Action* documenting the district's refusal to initiate an evaluation and the data the team considered as evidence that there is no need for evaluation at this time. The case manager provides the parents a copy of the *Prior Notice of Special Education Action* documenting the team's decision and a copy of their Procedural Safeguard Rights. The case manager then organizes all information gathered on the student as part of the referral and evaluation planning into a file for storage with other inactive files in the building. This file should remain easily accessible should the student be referred again at a later time.

☐ Sufficient data/ Special education action required at this time: There is **sufficient** existing data determined by the team to be a current measure of the student's ability and performance that meets all eligibility criteria for a suspected disability, no further evaluation is deemed necessary by the team, and eligibility determination can be made. The case manager and team completes a *Prior Notice about Evaluation / Consent for Evaluation* indicating the team's determination that no further evaluation is deemed necessary, and offers the parent the opportunity to request evaluation. The case manager provides the parents a copy of the *Prior Notice of Special Education Action* documenting the team's decision and a copy of their Procedural Safeguard Rights. If the parent does not request additional evaluation an eligibility determination meeting is scheduled.

☐ Under these circumstances (where there is **sufficient** existing data determined by the team to be a current measure of the student's ability and performance that meet all eligibility criteria for a suspected disability), an eligibility determination

language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;

(C) Are used for the purposes for which the assessments or measures are valid and reliable;

(D) Are administered by trained and knowledgeable personnel; and

(E) Are administered in accordance with any instructions provided by the producer of the assessments.

(b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(d) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(e) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified; and

(f) The evaluation includes assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

(5) Evaluation timelines:

(a) Initial. An initial evaluation must be completed within 60 school days from written parent consent to the date of the meeting to consider eligibility.

(b) Reevaluation. A reevaluation must be completed within 60 school days from written parent consent (or from the date the evaluation is initiated under OAR 581-015-2095(3)(c))

can be made at the same meeting the team completes evaluation planning, though rarely can this level of decision making occur at this point in time. (e.g. if a student moved into the district with a recent evaluation and eligibility from another district with similar RTI and EBIS programs to OSD, or a student transitions from ECSE to school age programs with a current evaluation and eligibility in any disability category other than Developmental Delay).

□ Insufficient data/ evaluation for special education required: There is **insufficient** existing data determined by the team to be a current measure of the student's ability and performance and there is documented evidence of the need for evaluation for special education at this time. The team plans the evaluation and the Case Manager completes a *Prior Notice of Special Education Action* clearly documenting in full detail all assessments that will be conducted, (full name of assessment and a brief description if the full assessment name does not describe what it assesses). *This form* is then provided to the parent who signs it, documenting whether or not they consent to the evaluation.

It is important to ensure that assessment does not begin until written consent has been obtained.

- If parent consent is obtained at the evaluation planning meeting the team may begin evaluation (and the *60 school day timeline begins*).

- If consent is not obtained at the meeting, the Case manager is responsible for following up with the parent to obtain written consent (and *the 60 school day timeline begins with the date the parent signs consent*).

- If the parent refuses to grant consent **for an initial evaluation**, or does not respond to the district's request for consent, the district may, but is not required to, pursue the evaluation through due process or mediation. Contact Student Services if you are unable to obtain parent consent.

- If, after reasonable attempts to obtain parent consent **for a reevaluation**, and the parent does not respond, the district may conduct the reevaluation, unless the reevaluation is an individual intelligence test or assessment of personality. (See *Consent section of this document for specific requirements and guidance relating to Consent for evaluation and reevaluation*.)

Once written consent is received from the parent, individual evaluation is conducted as agreed upon at the evaluation planning meeting and in accordance with the assessment(s) documented on the written consent form.

Are there general requirements for an evaluation?

Yes, the Evaluation Planning Team must ensure the following requirements are part of ALL evaluations:

- 1) A variety of assessment tools must be used to gather relevant educational, functional, and developmental information about the student, including information from the parent.

to the date of the meeting to consider eligibility, continuing eligibility or the student's educational needs.

(c) Exceptions. An evaluation may be completed in more than 60 school days under the following circumstances documented in the child's educational record:

(A) The parents of a child repeatedly fail or refuse to produce the child for an evaluation, or for other circumstances outside the school district's control.

(B) The student is a transfer student in the process of reevaluation and the district and the parents agree in writing to a different length of time to complete the evaluation in accordance with subsection (d);

(C) The district and the parents agree in writing to extend the timeline for an evaluation to determine eligibility for specific learning disabilities in accordance with OAR 581-015-2170.

(d) Transfer students.

(A) When a child with disabilities transfers from one school district to another school district in the same school year, the previous and current school district must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion of the evaluation.

(B) The exception under subsection (c)(B) only applies if the current school district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school district agree to a specific time for completion of the evaluation.

581-015-2115 Evaluation Planning

(1) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation, the child's IEP or IFSP team, and other qualified professionals, as appropriate, must:

(a) Review existing evaluation data on the child, including:

(A) Evaluations and information provided by the parents of the child;

(B) Current classroom-based, local, or state assessments, and classroom-based observations; and

(C) Observations by teachers and related services providers; and

(b) On the basis of that review, and input from the child's

This information assists the team in determining whether the child is a child with a disability and in the development of the child's IEP, including providing information related to enabling the child to be involved in and progress in the general education curriculum. *Occasionally, community professionals such as physicians, psychologists, or a service agency have assessment results that are relevant to the evaluation. To obtain these results, the case manager must have the parent complete an authorization to release information form unless the parent presents the evaluation summary or report directly to the team. If more than one source is being consulted, all sources can be listed on one authorization form so the parent need only sign a single form. The school will always consider any evaluation information presented by the parent. However, any evaluation from an outside source must meet the same general criteria for appropriateness of assessment tools, qualifications of the examiner, and comprehensiveness of the results if they are to be used in decision making.*

2) No single measure or assessment may be used for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. While there are minimum requirements for each eligibility category, each evaluation is individually designed based on the unique needs of the child and the concerns brought forward at the time of referral.

3) Technically sound instruments must be used to assess cognitive, behavioral factors, physical or developmental factors. There is a list of approved published evaluation tools maintained by the Student Services Office. If a team member wishes to use a test that is not on this list, it must be approved by the Student Services Office.

4) Assessments and other evaluation materials used to assess the child must be selected and administered so as not to be discriminatory on a racial or cultural basis.

5) Assessments must be provided and administered in the child's native language or mode of communication most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

If a student has a multi-lingual background, an assessment of the student's relative language development in all languages must be a documented component of the evaluation. It is necessary to involve ELL professionals and/or others in the community who speak the same native language as the student being evaluated. Consult the Student Services Offices for assistance with evaluations of students whose native language is not English. Consideration should be given to the appropriate mode of evaluation for children whose primary language is sign language.

6) Assessments must be used for the purposes for which they have been deemed valid and reliable, and must be administered by trained and knowledgeable personnel; and in accordance with any instructions provided by the producer of the assessments.

parents, identify what additional data, if any, are needed to determine:

(A) Whether the child is, or continues to be, a child with a disability;

(i) For a school-age child, under OAR 581-015-2130 through 581-015-2180; or

(ii) For a preschool child, under OAR 581-015-2780 or 581-015-2795;

(B) The present levels of academic achievement and related developmental needs of the child;

(C) Whether the child needs, or continues to need, EI/ECSE or special education and related services; and

(D) For reevaluation, whether the child needs any additions or modifications to special education and related services or, for a preschool child, any additions or modifications to ECSE services:

(i) To enable the child to meet the measurable annual goals in the child's IEP or IFSP; and

(ii) To participate, as appropriate, in the general education curriculum or, for preschool children, appropriate activities.

(2) Conduct of review. The team described in subsection (1) may conduct this review without a meeting. If a public agency holds a meeting for this purpose, parents must be invited to participate in conformance with OAR 581-015-2190 or, for parents of preschool children, with OAR 581-015-2750.

(3) Source of data. The public agency must administer tests and other evaluation materials as may be needed to produce the additional data identified under subsection (1)(b).

(4) Requirements if additional data are not needed.

(a) If the child's IEP or IFSP team determines that no additional data are needed to determine whether the child is or continues to be a child with a disability, and to determine the child's educational and developmental needs, the public agency must notify the child's parents:

(A) Of that determination and the reasons for it; and

(B) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability, and to determine the child's educational and developmental needs.

(b) The public agency is not required to conduct an

Occasionally, a test can only be administered to a child in a manner that is inconsistent with what is required in the test manual. When this occurs, all deviations from the standard administration must be documented and explained in the evaluation report.

7) Assessments and other evaluation materials must include those tailored to assess specific areas of educational needs and not merely those that are designed to provide a single general intelligence quotient.

8) Assessments must be selected and administered to ensure that if administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors the test measures).

9) The child must be assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

10) The evaluation must be comprehensive enough to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

Is there a required timeline for evaluation?

Yes. Oregon Administrative Rule (OAR) states ALL evaluations must be completed within 60 school days. The 60 school days is calculated from the date the parent signed the Prior Written Notice About Evaluation/ Consent for Evaluation to the date of the meeting to consider eligibility.

☐ Eligibility must also be reestablished every three years and CAN NOT be extended.

Evaluations must be well planned so that the process is completed not only within the 60 school day evaluation timeline, but also within the 3 year continuing eligibility timeline. It is vital that case managers plan with both these timelines in mind.

Are there any allowable exceptions to the 60 school day timeline?

An evaluation may be completed in more than 60 school days **only** under the following circumstances.

☐ The student transfers into the district and was in the process of being evaluated in the previous district and the district and parents agree in writing to a different length of time to complete the evaluation. When a child with disabilities transfers from one district to another in the same school year, the previous and current district must coordinate any pending assessments as necessary and as expeditiously as possible to ensure prompt completion

assessment of the child unless requested to do so by the child's parents.

581-015-2305: Independent Educational Evaluation

(1) A parent of a child with a disability or suspected disability has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.

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

(b) "Public expense" means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

(2) If a parent requests an independent educational evaluation at public expense, the school district must provide information to parents about where an independent educational evaluation may be obtained, and the school district criteria applicable for independent educational evaluations.

(3) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation, the qualifications of the examiner, and cost, must be the same as the criteria the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(a) Except for the criteria in subsection (3), a school district may not impose conditions, or timelines related to obtaining an independent education evaluation at public expense.

(b) The school district must provide parents an opportunity to demonstrate that unique circumstances justify an independent education evaluation that does not meet the district's criteria.

(4) If a parent requests an independent education evaluation at public expense, the school district must, without unnecessary delay, either:

(a) Ensure that an independent educational evaluation is provided at public expense unless the school district demonstrates in a hearing under OAR 581-015-2345 that

of the evaluation. The case manager needs to be diligent in ensuring the evaluation is completed within the original timeline, or within a timeline the parent and the school agree upon.

☐ The district and parents agree in writing to extend the timeline for evaluation to determine eligibility for a suspected Specific Learning Disability. This decision is only appropriate if it assists the team in better decision making. It should not be used because the team simply failed to complete a timely evaluation.

In these situations the case manager must clearly document the exception on the *Written Agreement form* and send the signed written agreement to Student Services.

An evaluation not completed within the 60 school day timeline that does not meet the allowable exceptions is considered an area of noncompliance. ANY time an evaluation is not completed on time the case manager must immediately contact the Student Services Office. Student Services will follow-up with the case manager on all cases of evaluation timeline noncompliance that does not fall under the allowable exceptions listed above.

Are the evaluation components the same for all disability categories?

No, the required components of an evaluation differ depending on the disability (ies) being considered. As part of evaluation planning, the case manager should facilitate team review of existing information and refer to specific OAR's for the disability(ies) category(ies) being considered to ensure the required evaluation components are addressed, either through existing information or through further assessment.

The members of the evaluation planning team need to have the appropriate expertise to plan the evaluation for the child. This may require the case manager to invite individuals who are not typically involved in evaluation planning to the meeting. For example, if a student is suspected of having a traumatic brain injury, it may be necessary to involve the school nurse and school psychologist who have special expertise in the area of traumatic brain injury.

If a team is uncertain about a presenting problem and/or their expertise in assessing the child, the case manager should contact one of the administrators in the Student Services Office.

What is an Independent Educational Evaluation?

An Independent Educational Evaluation (IEE) is a procedural safeguard right under the IDEA that must be made available to parents at no cost **IF** the district has already conducted an evaluation and the parent disagrees with the results of the evaluation.

☐ The district must respond to a parent request for an IEE by either assisting the parent in securing an IEE or by filing a due process hearing request. If the district requests due process and the final decision is that the district's evaluation is appropriate, the parent may

the evaluation obtained by the parent did not meet school district criteria in accordance with (3); or

(b) Initiate a due process hearing under OAR 581-015-2345 to show that its evaluation is appropriate.

(5) If the school district initiates a hearing and the final decision is that the school district's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(6) If the parent requests an independent educational evaluation, the school district may ask why the parent disagrees with the public evaluation. The parent may, but is not required, to provide an explanation. The school district may not unreasonably delay either providing the independent education evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(7) If the parent obtains an independent educational evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation:

(a) Must be considered by the school district, if it meets the district's criteria, in any decision made with respect to the provision of a free appropriate public education to the child; and

(b) May be presented by any party as evidence at a due process hearing.

(8) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

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

581-015-2130: Autism Spectrum Disorder

(1) If a child is suspected of having an autism spectrum disorder, the following evaluation must be conducted:

(a) Developmental profile. A developmental profile that describes the child's historical and current characteristics that are associated with an autism spectrum disorder, including:

(A) Impairments in communication;

(B) Impairments in social interaction;

(C) Patterns of behavior, interests or activities that are

still request an IEE, but *in this situation* the district is not obligated to pay for the evaluation.

□ An IEE must address the concerns of the parent related to the student's identification, eligibility, educational needs, or placement in a similar way to the district evaluation the parent is disputing.

□ An IEE must be conducted by individuals who are licensed or certified to conduct the specific evaluations required. IEE results must be considered by the district in providing FAPE to the student as long as the IEE meets the criteria necessary for making these determinations.

Parent requests for an IEE should be forwarded to the Office of Student Services immediately, where an administrator will assist the parent with their request for an IEE.

What are the evaluation criteria for each Disability category?

There is an OAR for each disability type which contains the criteria for the specific disability (located in left hand column). Any OSD specific process or procedure required when considering a criteria for a disability is listed below, in direct correspondence to the OAR for that disability.

Autism Spectrum Disorder evaluations must be planned and conducted with the leadership and involvement of the school's autism consultant. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements.

restricted, repetitive, or stereotypic; and

(D) Unusual responses to sensory experiences.

(b) Observations. At least three observations of the child's behavior, at least one of which involves direct interactions with the child. The observations must occur in multiple environments, on at least two different days, and be completed by one or more licensed professionals knowledgeable about the behavioral characteristics of autism spectrum disorder.

(c) Communication assessment. An assessment of communication to address the communication characteristics of autism spectrum disorder, including measures of language semantics and pragmatics completed by a speech and language pathologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology or the Teacher Standards and Practices Commission;

(d) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(e) Behavior rating tool. An assessment using an appropriate behavior rating tool or an alternative assessment instrument that identifies characteristics associated with an autism spectrum disorder.

(f) Other.

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an autism spectrum disorder, the child must meet all of the following minimum criteria:

(a) The team must have documented evidence that the child demonstrates all of the characteristics listed under subsection (1)(a). Each of these characteristics must be:

(A) Characteristic of an autism spectrum disorder;

(B) Inconsistent or discrepant with the child's development in other areas; and

(C) Documented over time and/or intensity.

(3) For a child to be eligible for special education services as a child with an autism spectrum disorder, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

(4) A child may not be eligible for special education services on the basis of an autism spectrum disorder if the child's primary disability is an emotional disturbance under OAR 581-015-2145. However, a child with autism spectrum disorder as a primary disability may also have an emotional disturbance as

OAR 581-015-2135: Communication Disorder

(1) If a child is suspected of having a communication disorder, the following evaluation must be conducted:

(a) Speech-language assessment. A speech and language assessment administered by a speech and language pathologist licensed by a State Board of Examiners for Speech-Language Pathology and Audiology or the Teacher Standards and Practices Commission, including:

(A) When evaluating syntax, morphology, semantics or pragmatics, a representative language sample and comprehensive standardized tests that assess expression and comprehension;

(B) When a voice disorder is suspected, a voice assessment scale; and

(C) When a fluency disorder is suspected, an observation in at least two settings;

(b) Medical or health assessment statement. For a child suspected of having a voice disorder, a medical statement by an otolaryngologist licensed by a State Board of Medical Examiners. For other than a voice disorder, if a medical or health diagnosis is needed, a medical statement or health assessment statement describing relevant medical issues;

(c) Hearing evaluation or screening. An evaluation or screening of the child's hearing acuity and, if needed, a measure of middle ear functioning;

(d) Other.

(A) An evaluation of the child's oral mechanism, if needed;

(B) Any additional assessments necessary to determine the impact of the suspected disability:

- (i) On the child's educational performance for a school-age child; or
- (ii) On the child's developmental progress for a preschool child; and

(C) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with a specific communication disorder, the child must meet the following minimum criteria:

- (a) Voice disorder:
 - (A) The child demonstrates chronic vocal characteristics that deviate in at least one of the areas of pitch, quality, intensity or resonance;
 - (B) The child's voice disorder impairs communication or intelligibility; and
 - (C) The child's voice disorder is rated as moderate to severe on a voice assessment scale.
- (b) Fluency disorder:
 - (A) The child demonstrates an interruption in the rhythm or rate of speech that is characterized by hesitations, repetitions, or prolongations of sounds, syllables, words or phrases;
 - (B) The child has a fluency disorder that interferes with communication and calls attention to itself across two or more settings; and
 - (C) The child demonstrates moderate to severe vocal dysfluencies or the child evidences associated secondary behaviors, such as struggling or avoidance as measured by a standardized measure.
- (c) Phonological or articulation disorder:
 - (A) The child's phonology or articulation is rated significantly discrepant as measured by a standardized test; and
 - (B) The disorder is substantiated by a language sample or other evaluation(s).
- (d) Syntax, morphology, pragmatic or semantic disorder:
 - (A) The child's language in the area of syntax, morphology, semantics or pragmatics is significantly discrepant as measured by standardized test(s) or other evaluation data; and
 - (B) The disorder is substantiated by a language sample or

other evaluation(s).

(C) For a child to be eligible with a syntax, morphology, pragmatic or semantic disorder, the disorder is not the result of another disability.

(3) For a child to be eligible for special education services as a child with a communication disorder, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

581-015-2140: Deafblindness

(1) If a child is suspected of having deafblindness, the following evaluation must be conducted:

(a) The minimum evaluation procedures for hearing impairment and vision impairment under OAR 581-015-2150 and 581-015-2180, respectively;

(b) If the child demonstrates inconsistent or inconclusive responses in an assessment of one sensory area, a functional assessment must be administered by a state licensed educator of the visually impaired, a state licensed educator of the hearing impaired or an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology.

(2) To be eligible as a child with deafblindness, the child must meet one or more of the following minimum criteria:

(a) The child meets the minimum criteria for both vision impairment and hearing impairment under OAR 581-015-2150 and 581-015-2180, respectively; or

(b) The child meets the minimum criteria for either vision impairment or hearing impairment and demonstrates inconsistent or inconclusive responses in an assessment of the other sensory area; or

(c) The child meets the minimum criteria for either vision impairment or hearing impairment and has a degenerative disease or pathology that affects the acuity of the other sensory area.

(3) For a child to be eligible for special education services as a child having deafblindness, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's

Evaluation of a student for **Deafblindness** requires referral to the Regional Program. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements.

educational performance; and
(b) The child needs special education services as a result of the disability.

581-015-2145: Emotional Disturbance

(1) If a child is suspected of having an emotional disturbance, the following evaluation must be conducted:

(a) Social-emotional evaluation. An evaluation of the child's emotional and behavioral status, including a developmental or social history, when appropriate.

(b) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any physical factors that may be affecting the child's educational performance;

(c) Behavior rating scales. The completion of at least two behavior-rating scales, at least one of which is a standardized behavior measurement instrument;

(d) Observation. An observation in the classroom and in at least one other setting by someone other than the child's regular teacher;

(e) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2)(a) To be eligible as a child with an emotional disturbance, the child must meet the following minimum criteria:

(b) The child exhibits one or more of the following characteristics over a long period of time and to a marked degree:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal

Evaluations in the area of **Emotional Disturbance** are conducted under the leadership of and with the involvement of the Director of Student Services and/or District Learning Specialist. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements

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.

(3) For a child to be eligible for special education services as a child with an emotional disturbance, the eligibility team must also determine that:

- (a) The child's disability has an adverse impact on the child's educational performance; and
- (b) The child needs special education services as a result of the disability;
- (4) A child who is socially maladjusted may not be identified as having an emotional disturbance unless the child also meets the minimum criteria under this rule.

581-015-2150: Hearing Impairment

(1) If a child is suspected of having a hearing impairment, the following evaluation must be conducted:

- (a) Audiology assessment. An audiological assessment by an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology;
- (b) Medical or health assessment statement. A medical statement or a health assessment statement indicating that the hearing loss is sensory-neural or conductive, if the conductive loss has been determined to be untreatable by a physician;
- (c) Other:
 - (A) Any additional assessments necessary to determine the impact of the suspected disability:
 - (i) On the child's educational performance for a school-age child; or
 - (ii) On the child's developmental progress for a preschool child; and
 - (B) Any additional evaluations or assessments necessary to identify the child's educational needs.
- (2) To be eligible as a child with a hearing impairment, the child must meet one of the following minimum criteria:
 - (a) The child has a pure tone average loss of 25 dbHL or greater in the better ear for frequencies of 500 Hz, 1000 Hz, and 2000 Hz, or a pure tone average loss of 35 dbHL or greater in the better ear for frequencies of 3000 Hz,

Adverse impact on educational performance can include, in addition to academic achievement measures, difficulty with social behavior such as acting out or failure to engage to such a degree that the student does not complete class work, is unable to remain in class due to extreme behavior despite the use of positive behavior supports, and a student's failure to attend school due to emotional problems such as phobias, anxiety, or depression.

Assessment for students suspected of having a **Hearing Impairment** require the involvement of the Regional Program. The Speech/Language Pathologist should provide leadership and be involved in these evaluations. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements

4000 Hz, and 6000 Hz; or
(b) The child has a unilateral hearing impairment with a pure tone average loss of 50 dbHL or greater in the affected ear for the frequencies 500 Hz to 4000 Hz; and
(c) The loss is either sensorineural or conductive if the conductive loss has been determined to be currently untreatable by a physician.
(3) For a child to be eligible for special education services as a child with a hearing impairment, the eligibility team must also determine that:
(a) The child's disability has an adverse impact on the child's educational performance; and
(b) The child needs special education services as a result of the disability.

581-015-2155: Intellectual Disability

(1) If a child is suspected of having an Intellectual Disability, the following evaluation must be conducted:
(a) Intelligence test. An individually administered standardized intelligence test meeting the reliability and validity standards of the American Psychological Association and administered by a licensed school psychologist, a psychologist licensed by the State Board of Psychological Examiners, or other individual assigned by a school district who has the training and experience to administer and interpret individually administered intelligence tests;
(b) Adaptive behavior scale. The administration of a valid adaptive behavior scale;
(c) Medical or health assessment statement. A medical statement or a health assessment statement indicating whether there are any sensory or physical factors that may be affecting the child's educational performance;
(d) Developmental history. A developmental history of the child;
(e) Other:
(A) Any additional assessments necessary to determine the impact of the suspected disability:
(i) On the child's educational performance for a school-age child;
or
(ii) On the child's developmental progress for a preschool child;
and
(B) Any additional evaluations or assessments necessary

Evaluations for students suspected of having an **Intellectual Disability** are conducted under the leadership and with the involvement of the Director of Student Services and/or the District Learning Specialist. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements

to identify the child's educational needs.

(2) To be eligible as a child with an Intellectual Disability, the child must meet all of the following minimum criteria:

- (a) The child's intelligence test score is 2 or more standard deviations below the mean;
 - (b) The child has deficits in adaptive behavior coexistent with the child's impairment in intellectual functioning;
 - (c) The child's developmental level or educational achievement is significantly below age or grade norms; and
 - (d) The child's developmental or educational problems are not primarily the result of sensory disabilities or other physical factors.
- (3) For a child to be eligible for special education services as a child with an Intellectual Disability, the eligibility team must also determine that:
- (a) The child's disability has an adverse impact on the child's educational performance; and
 - (b) The child needs special education services as a result of the disability.

OAR 581-015-2160: Orthopedic Impairment

(1) If a child is suspected of having an orthopedic impairment, the following evaluation must be conducted:

- (a) Medical or health assessment statement. A medical statement or a health assessment statement indicating a diagnosis of an orthopedic or neuromotor impairment or a description of the motor impairment;
 - (b) Motor assessment. A standardized motor assessment, including the areas of fine motor, gross motor and self-help, when appropriate, by a specialist knowledgeable about orthopedic or neuromotor development;
 - (c) Other:
 - (A) Any additional assessments necessary to determine the impact of the suspected disability:
 - (i) On the child's educational performance for a school-age child; or
 - (ii) On the child's developmental progress for a preschool child; and
 - (d) Any additional evaluations or assessments necessary to identify the child's educational needs.
- (2) To be eligible as a child with an orthopedic impairment, the

Evaluations for students who may qualify as having an **Orthopedic Impairment** are conducted with the involvement of the district's Physical Therapist and Occupational Therapist. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements

child must meet all of the following minimum criteria:

(a) The child has a motor impairment that results in deficits in the quality, speed or accuracy of movement. These deficits must be documented by a score of two or more standard deviations below the mean in fine motor skills, gross motor skills, or self-help skills, or functional deficits in at least two of these three motor areas; and

(b) The child's condition is permanent or is expected to last for more than 60 calendar days.

(3) For a child to be eligible for special education services as a child with an orthopedic impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

581-015-2165: Other Health Impairment

(1) If a child is suspected of having an Other Health Impairment, the following evaluation must be conducted:

(a) Medical or health assessment statement. A medical statement or a health assessment statement, indicating a diagnosis of a health impairment or a description of the impairment, and a statement that the child's condition is permanent or is expected to last for more than 60 calendar days;

(b) Other:

(A) Any additional assessments necessary to determine the impact of the suspected disability:

(i) On the child's educational performance for a school-age child; or

(ii) On the child's developmental progress for a preschool child; and

(B) Any additional evaluations or assessments necessary to identify the child's educational needs.

(2) To be eligible as a child with an other health impairment, the child must meet all of the minimum criteria:

(a) The child exhibits limited strength, vitality or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment;

(b) The child's limited strength, vitality or alertness is due to a

The evaluation of a student who is suspected of having an **Other Health Impairment** must involve individuals who have expertise in the particular condition the student has. In some cases (such as chronic diseases like cancer or heart conditions) this will be the school nurse. In other cases (such as ADHD) it may be the District Learning Specialist. In some cases (such as Tourette's Syndrome) it may be necessary to call in another district specialist or outside consultant. If the evaluation planning team determines this need, contact Student Services. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements.

chronic or acute health problem; and
(c) The child's condition is permanent or expected to last for more than 60 calendar days.
(3) For a child to be eligible for special education services as a child with an other health impairment, the eligibility team must also determine that:
(a) The child's disability has an adverse impact on the child's educational performance; and
(b) The child needs special education services as a result of the disability.

581-015-2170: Specific Learning Disability

(1) If a child is suspected of having a specific learning disability, the following evaluation must be conducted:
(a) Academic assessment. An assessment of a child's academic achievement toward Oregon grade-level standards;
(b) Review. A review of cumulative records, previous IEPs or IFSPs and teacher collected work samples;
(c) Observation. An observation of the child in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty, which must consist of:
(A) Information from an observation by a qualified professional in routine classroom instruction and monitoring of the child's performance before the child was referred for an evaluation; or
(B) An observation conducted by a qualified professional (who is a member of the evaluation team) of the child's academic performance in a regular classroom after the child has been referred for an evaluation and parent consent obtained; or
(C) For a child who is less than school age or out of school, an observation in an age-appropriate environment.
(d) Progress monitoring data, including:
(A) Data that demonstrate that before, or as part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
(B) Data-based documentation of repeated assessments

Evaluations for students suspected as having a **Specific Learning Disability** are to be conducted according to the district procedures found in the appendix of this document.

Ontario School District uses a Response to Intervention (RTI) model for identifying students with Learning Disabilities. The guidance below is to assist you when a student moves into the district with a current SLD eligibility that was determined using a discrepancy or patterns of strengths and weaknesses model

1. Move in from out of state: By law all students who move in from out of state must be re-evaluated and determined eligible in the State of Oregon. You should follow the same procedures as you would for a student initially referred for SLD eligibility consideration. While the team is completing the evaluation and eligibility process you must provide IEP services as outlined on the students IEP.

2. Move in from another district in state: Students who move in from another district in Oregon with a current SLD eligibility are eligible in the OSD even if the previous district did not use the RTI model to determine eligibility. The team may accept the eligibility regardless of the model used for identification. You should provide services as written on the IEP and monitor student progress. If progress monitoring data indicates the student responds to intervention/ specially designed instruction in a manner that would indicate the student does not have a disability you should initiate the evaluation process and reconsider eligibility.

of achievement at reasonable intervals, reflecting formal assessment of student progress that is directly linked to instruction.

(e) For a student evaluated using a response to intervention model as part of a comprehensive evaluation process to determine if the child has a specific learning disability, the evaluation must include documentation of:

(A) The type, intensity, and duration of scientific, research-based instructional intervention(s) provided in accordance with the district's response to intervention model;

(B) The student's rate of progress during the instructional intervention(s);

(C) A comparison of the student's rate of progress to expected rates of progress.

(D) Progress monitoring on a schedule that:

(i) Allows a comparison of the student's progress to the performance of peers;

(ii) Is appropriate to the student's age and grade placement;

(iii) Is appropriate to the content monitored; and

(iv) Allows for interpretation of the effectiveness of intervention.

(f) *For a student evaluated using a model that is based on the student's strengths and weaknesses, the evaluation must include an assessment of the student's strengths and weaknesses in classroom performance and academic achievement, relative to age, Oregon grade-level standards, or intellectual development.*

(g) Other:

(A) If needed, a developmental history;

(B) If needed, an assessment of cognition, fine motor, perceptual motor, communication, social or emotional, and perception or memory if the child exhibits impairment in one or more these areas;

(C) If needed, a medical statement or health assessment indicating whether there are any physical factors that may be affecting the child's educational performance; and

(D) Any other assessments required to determine the impact of the suspected disability:

(i) On the child's educational performance for a

Note: The district does not use this approach in determining a Specific Learning Disability. All SLD evaluations are conducted using an RTI problem solving approach.

school-age child; or

(ii) On the child's developmental progress for a preschool child.

(2) For consideration of eligibility in the area of specific learning disabilities, the eligibility team must include:

(a) A group of qualified professionals and the parent;

(b) The child's regular classroom teacher or, if the child does not have a regular classroom teacher, a regular classroom teacher qualified to teach a child of his or her age, or, for a child of less than school age, a preschool teacher; and

(c) A person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or other qualified professional.

(3) To be eligible as a child with a specific learning disability, the child must meet the following minimum criteria:

(a) The child does not achieve adequately for the child's age or to meet Oregon grade-level standards in one or more of the following areas when provided with learning experiences and instruction appropriate for the child's age or Oregon grade-level standards:

(A) Basic reading skills;

(B) Reading fluency skills;

(C) Reading comprehension;

(D) Mathematics calculation;

(E) Mathematics problem-solving;

(F) Written Expression;

(G) Oral expression; or

(H) Listening comprehension.

(b) For a student evaluated using a response to intervention model, in relation to one or more of the areas in subsection (3)(a), the student does not make sufficient progress to meet age or Oregon grade-level standards based on the student's response to scientific, research-based intervention.

(c) For a student evaluated using a model that is based on the student's strengths and weaknesses, in relation to one or more of the areas in subsection (3)(a), the student exhibits a pattern of strengths and weaknesses in classroom performance, academic achievement, or both, relative to age, Oregon grade-level standards, or intellectual development, that is determined by the group to be

Note: For SLD consideration the eligibility team must include the child's regular classroom teacher. A regular education teacher who is not the child's own teacher would only be appropriate to consider as a team member if the child did not have a regular classroom teacher.

relevant to the identification of a specific learning disability.

(d) The child's rate of progress in subsection (3)(b) or pattern of strengths and weaknesses in subsection (3)(c) is not primarily the result of:

- (A) A visual, hearing, or motor impairment; mental retardation or emotional disturbance;
- (B) Cultural factors;
- (C) Environmental or economic disadvantage; or
- (D) Limited English proficiency.

(4) For a child to be eligible for special education services as a child with a specific learning disability, the eligibility team must also determine that:

- (a) The child's disability has an adverse impact on the child's educational performance; and
- (b) The child needs special education services as a result of the disability.

(5) The eligibility team must prepare an evaluation report and written statement of eligibility documenting its findings, including:

- (a) The evaluation data considered in determining the child's eligibility;
- (b) A determination of whether the child meets the minimum criteria for a specific learning disability;
- (c) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (d) The educationally relevant medical findings, if any;
- (e) If the child participated in a response to intervention process, documentation that the parents were notified in a timely manner about: the state's policies regarding the amount and nature of student performance data that would be collected, and the general education services that would be provided, as part of the response to intervention process; strategies for increasing the child's rate of learning; and the parent's right to request an evaluation.
- (f) The determination of the team concerning the effects of a visual, hearing, or motor disability; mental retardation; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

- (g) A determination of whether the primary basis for the suspected disability is:
- (A) A lack of appropriate instruction in reading or math; or
 - (B) Limited English proficiency;
- (h) A determination of whether the child's disability has an adverse impact on the child's educational performance;
- (i) A determination of whether, as a result of the disability, the child needs special education services; and
- (j) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.

581-015-2175: Traumatic Brain Injury

- (1) If a child is suspected of having a traumatic brain injury, the following evaluation must be conducted:
- (a) Medical or health assessment statement. A medical statement or a health assessment statement indicating that an event may have resulted in a traumatic brain injury as defined in subsection (2)(A);
 - (b) Psychological assessment. A comprehensive psychological assessment using a battery of instruments intended to identify deficits associated with a traumatic brain injury administered by a licensed school psychologist, a psychologist licensed by a State Board of Psychological Examiners, or other individuals who have the training and experience to administer and interpret the tests within the battery;
 - (c) Other.
 - (A) Other assessments including, but not limited to, motor assessments if the child exhibits motor impairments; communication assessments if the child exhibits communication disorders; and psychosocial assessments if the child exhibits changed behavior. These assessments must be completed by educators knowledgeable in the specific area being assessed;
 - (B) Other information relating to the child's suspected disability, including pre-injury performance and a current measure of adaptive ability;
 - (C) An observation in the classroom and in at least one other setting;
 - (D) Any additional assessments necessary to determine the impact of the suspected disability:

If the team is considering **Traumatic Brain Injury**, contact the Student Services Office for assistance and guidance. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements

- (i) On the child's educational performance for a school-age child;
or
(ii) On the child's developmental progress for a preschool child;
and
(E) Any additional evaluations or assessments necessary to identify the child's educational needs.
- (2) To be eligible as a child with a traumatic brain injury, the child must meet all of the following minimum criteria:
- (a) The child has an acquired injury to the brain caused by an external physical force;
- (b) The child's condition is permanent or expected to last for more than 60 calendar days;
- (c) The child's injury results in an impairment of one or more of the following areas:
- (A) Communication;
- (B) Behavior;
- (C) Cognition, memory, attention, abstract thinking, judgment, problem-solving, reasoning, and/or information processing;
- (D) Sensory, perceptual, motor and/or physical abilities.
- (3) For a child to be eligible for special education services as a child with a traumatic brain injury, the eligibility team must also determine that:
- (a) The child's disability has an adverse impact on the child's educational performance; and
- (b) The child needs special education services as a result of the disability.
- (4) Students with brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma, are not eligible under the category of traumatic brain injury but may be eligible under a different category under this rule.

581-015-2180: Vision Impairment

- (1) If a child is suspected of having a vision impairment, the following evaluation must be conducted:
- (a) Medical statement. A medical statement by an ophthalmologist or optometrist licensed by a State Board of Examiners indicating whether the child has a vision impairment;
- (b) Vision assessment. An assessment by a teacher of the visually impaired to identify the child's educational and compensatory needs, including a functional assessment of

Evaluation of a student suspected of having a **Vision Impairment** requires referral to the Regional Program. The evaluation planning team should refer to the accompanying OAR (on the left) for evaluation requirements.

the child's residual visual acuity or field of vision.

(c) Other: Any additional assessments necessary to determine the impact of the suspected disability:

(A) On the child's educational performance for a school-age child; or

(B) On the child's developmental progress for a preschool child.

(2) To be eligible as a child with a vision impairment, the child must meet one or more of the following minimum criteria:

(a) The child's residual acuity is 20/70 or less in the better eye with correction;

(b) The child's visual field is restricted to 20 degrees or less in the better eye;

(c) The child has an eye pathology or a progressive eye disease which in the opinion of the ophthalmologist is expected to reduce either residual acuity or visual field according to the criteria stated in subsections (2)(a) or (b); or

(d) The assessment results of a licensed ophthalmologist or optometrist are inconclusive, and the child demonstrates inadequate use of residual vision.

(3) For a child to be eligible for special education services as a child with vision impairment, the eligibility team must also determine that:

(a) The child's disability has an adverse impact on the child's educational performance; and

(b) The child needs special education services as a result of the disability.

Required district forms: The forms listed below are required at certain times or for certain actions as part of evaluation for special education. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting
- ☐ Minutes of Evaluation/ Reevaluation Planning Meeting;
- ☐ Prior Notice about Evaluation/ Consent for Evaluation;
- ☐ Agreement between Parents and the District;
- ☐ *Prior Notice of Special Education Action;*
- ☐ Prior Notice and Consent for Initial Provision of Special Education;
- ☐ Eligibility Determination(by disability);
- ☐ Parents Rights for Special Education Handbook;
- ☐ Authorized for Release of Information form
- ☐ Regional Program Referral Form

Section 5: Prior Notice and Consent	District Interpretation
<p>581-015-2315: Notice of Procedural Safeguards</p> <p>(1) School districts must give parents a copy of the Notice of Procedural Safeguards at a minimum only one time per year, except that a copy must be given to the parents:</p> <ul style="list-style-type: none"> (a) Upon initial referral or parent request for evaluation; (b) Upon request by a parent; and (c) Also to the child, at least a year before the child's 18th birthday. <p>(2) The procedural safeguards notice must include all of the content provided in the Notice of Procedural Safeguards published by the Department in the following areas:</p> <ul style="list-style-type: none"> (a) Independent educational evaluations; (b) Prior written notice; (c) Parental consent; (d) Access to educational records; (e) Mediation, complaints and due process hearings; (f) The child's placement during pendency of due process proceedings; (g) Procedures for students who are subject to placement in an interim alternative educational setting; (h) Requirements for unilateral placement by parents of children in private school at public expense; (i) Civil actions, including the time period for filing such actions; (j) Attorney's fees; and (k) Transfer of rights at age of majority. <p>(3) The Notice of Procedural Safeguards must be written in language understandable to the general public.</p> <p>(4) The Notice of Procedural Safeguards must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.</p> <p>(5) If the native language or other mode of communication of the parent is not a written language, the school district shall take steps to ensure:</p> <ul style="list-style-type: none"> (a) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; (b) That the parent understands the content of the notice; and (c) That there is written evidence that the district has met these requirements. 	<p>Parents of a child with a disability have guaranteed procedural safeguard rights under the IDEA. These rights include the right to participate in decisions about their child throughout the special education process, including participation in meetings dealing with the identification, evaluation, and educational placement of their child, and the provision of a free appropriate public education. Parental procedural safeguard rights are explained in a written document entitled: <i>Notice of Procedural Safeguards: Parents' Rights for Special Education</i>. This document is prepared for districts by the Oregon Department of Education (ODE). The ODE provides a written Notice of Procedural Safeguards for children 5 to 21 years of age. Translations are available in Spanish, Russian, Vietnamese, and Chinese on the ODE website at: http://www.ode.state.or.us/search/results/?id=261</p> <p>When must we provide parents with Notice of Procedural Safeguards?</p> <p>The IDEA requires districts to give the parents of a student with a disability written notice of their procedural safeguards rights at least one time each school year. In addition, a copy must also be given to parents:</p> <ul style="list-style-type: none"> <input type="checkbox"/> upon initial referral, or parent request for evaluation; <input type="checkbox"/> upon receipt of a formal complaint or due process hearing request; <input type="checkbox"/> when a decision is made to take a disciplinary action that constitutes a change of placement; <input type="checkbox"/> when a parent provides the district with written notice that they are unilaterally revoking consent for special education services, and, <input type="checkbox"/> upon parent request. <p><input type="checkbox"/> The district must also provide a copy of the Procedural Safeguards <i>to the student</i> at least one year prior to the student's 18th birthday. This should occur at the same IEP meeting when the student and parent are notified that rights will transfer in one year. Whenever a case manager provides parents a copy of the <i>Notice of Procedural Safeguards: Parents' Rights for Special Education</i>, it must be documented in the students file. <i>This is best accomplished by documenting it at the bottom of the annual IEP and/or in the meeting notes.</i></p> <p>What is Prior Written Notice?</p> <p>Prior written notice is one of the "procedural safeguard" rights. It is there to ensure that parents receive documentation that fully informs them of the educational decisions made by a team, the factors that were considered in making those decisions, and the information the team based the decision on. The district must provide Prior Written Notice in the parents' native language or other mode of communication (unless it is clearly not feasible to do so), and at a language level understandable to the general public. The entire content of the notice must be</p>

581-015-2310: Prior Written Notice

(1) Prior written notice must be given to the parent of a child, and to the adult student after rights have transferred, within a reasonable period of time before a school district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

(2) Prior written notice must be given after a decision is made and a reasonable time before that decision is implemented.

(3) The content of the prior written notice must include:

(a) A description of the action proposed or refused by the school district;

(b) An explanation of why the district proposes or refuses to take the action;

(c) A description of any other options that the IEP team considered and reasons why those options were rejected;

(d) A description of each evaluation procedure, assessment, test, record, or report the school district used as a basis for the proposed or refused action;

(e) A description of any other factors that are relevant to the school district's proposal or refusal; and

(f) A statement that the parents of a child with a disability have procedural safeguards, and if it is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguards may be obtained;

(g) Sources for parents to contact to obtain assistance in understanding their procedural safeguards.

(4) The prior notice must be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(5) If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that:

(a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(b) The parent understands the content of the notice; and

translated into the parents' native language. Translated templates of the form are available on the ODE website at: <http://www.ode.state.or.us/search/page/?=817>. The district is responsible for translating the written content of the form.

If the native language or other mode of communication of the parent is not a written language, the case manager must be sure that:

- ☐ The notice is translated orally or by other means to the parent in their native language or other mode of communication (such as sign language);
- ☐ The parent understands the content of the notice; and
- ☐ You clearly document this has occurred.

Because parents do not actively give consent for each decision in the special education process, Prior Written Notice must be provided to the parent within a reasonable period of time before the district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement, or provision of a Free Appropriate Public Education to the child.

What are the different types of Prior Written Notice?

There are three types of Prior Written Notice:

- ☐ Prior Written Notice About Evaluation/ Consent for Evaluation;
- ☐ Prior Written Notice for the Initial Provision of Special Education; and,
- ☐ Prior Written Notice of Special Education Action.

Under what circumstances must Prior Written Notice be provided?

☐ Any time you want to conduct evaluation procedures that are individual to the student and not listed on their IEP as a measure of progress, **Prior Notice about Evaluation/ Consent for Evaluation** must be provided to the parent and written consent must be obtained.

☐ If, after consideration of a referral, the team determines there is no need to evaluate a student for special education; **Prior Notice of Special Education Action** must be provided to the parent.

☐ When eligibility is initially determined, (which includes a student who moves to Oregon with eligibility from another state and who is subsequently found eligible for special education in Oregon); or, if a student was previously eligible for special education in Oregon and eligibility was terminated and the student is determined eligible again, **Prior Notice and Consent for the Initial Provision of Special Education Services** must be provided to the parent;

☐ If the IEP team proposes to initiate a change to a student's IEP that is considered a "change in FAPE", or the team refuses to initiate a change to a student's IEP, a **Prior Notice of Special Education Action** must be provided to the parent. "Change in FAPE"

(c) There is written evidence that the requirements in subsections (5)(a) and (b) of this rule has been met.
(6) If the proposed action requires prior written notice and written consent, the district may give notice at the same time it requests consent.

581-015-2090: Consent

(1) Consent for initial evaluation:

(a) The school district must provide notice under OAR 581-015-2310 and obtain informed written consent from the parent or adult student before conducting an initial evaluation to determine if a child qualifies as a child with a disability under OAR 581-015-2130 through 581-015-2180.

(A) Consent for initial evaluation may not be construed as consent for the initial provision of special education and related services.

(B) The school district must make reasonable efforts to obtain the informed consent from a parent for an initial evaluation to determine a child's eligibility for special education services.

(b) If a parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for an initial evaluation, or does not respond to a request for consent for an initial evaluation, the school district may, but is not required to, pursue the initial evaluation of the child using mediation or due process hearing procedures. A district does not violate its child find obligations if it declines to pursue the evaluation using these procedures.

(c) Consent for initial evaluation for a child who is a ward of the state may be obtained under OAR 581-015-2095(2).

(2) Consent for initial provision of services:

(a) A school district must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

(c) If a parent or adult student does not respond or refuses to consent for initial provision of special education and related services, the school district may not seek to provide special education and related services to the child

is interpreted to mean adding a service, removing a service, or changing the amount or frequency of a service on the IEP.

○ OSD uses the *Prior Written Notice of Special Education Action* form to document the key decisions of the IEP team (and does not require IEP teams to take meeting minutes). It is therefore critical to ensure the Prior Written Notice clearly details each key decision of the team. (*Please see the resource section of this manual for further guidance on Prior Written Notice of Special Education Action and IEP meetings*).

□ When the team changes a student's placement, **Prior Notice of Special Education Action** must be provided to the parent.

□ When a parent provides notice to the district that they are unilaterally revoking consent for the provision of special education and related services for their child the case manager must:

1. Schedule a meeting with the parent and ask that they bring a written request for revocation with them to the meeting (if they have not already provided their request in written form).

2. Prepare the **Prior Notice of Special Education Action** the district has provided for use in this situation. The case manager should complete the fillable name(s) and date(s) section of the form and print three copies.

3. Carefully review the content of the Prior Notice with the parent(s) at the meeting to ensure they fully understand what their revocation of consent means for their child. At the conclusion of the meeting if the parent is still requesting revocation of consent the case manager should provide the parent one copy of the Prior Notice and a copy of the Procedural Safeguards Booklet.

4. Upload the Prior Written Notice into SEAS.

5. Send a copy of the written request and the completed Prior Notice to Student Services and place a copy in the child's blue file with the written request from the parents.

Note: If the parent is unwilling to attend a meeting, please contact Student Services immediately.

Prior Written Notice must be given to the parent after a decision is made but before the decision is implemented. The IDEA is silent as to a specific timeframe between provision of prior notice and implementation of change. The case manager must use his/her best judgment and consideration of the following: If there is strong consensus by the team, the change may be implemented immediately following the decision and provision of notice. If there is any concern expressed, or the parent appears hesitant, the team should provide as much as 10 school days between the prior notice and implementation of the change to allow the parent to consider the district's proposal or refusal and respond. If there is a question as to a timeframe you may contact one of the Student Services Office.

by using mediation or due process hearing procedures.

What must the prior written notice include?

(d) If a parent or adult student refuses to grant consent for initial provision of special education and related services, or does not respond to a request to provide such consent:

(A) The school district will not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the child with the special education and related services for which the school district requests consent; and

(B) The school district is not required to convene an IEP meeting or develop an IEP for the child for the special education and related services for which the school district requests such consent.

(3) Consent for reevaluation:

(a) A school district must obtain informed parent consent before conducting any reevaluation of a child with a disability, except as provided in subsections (b) and OAR 581-015-2095.

(b) If a parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using mediation or due process hearing procedures. A district does not violate its obligations under 34 CFR 300.111 and 34 CFR 300.301-311 if it declines to pursue the reevaluation using these procedures.

(4) Revocation of consent: A parent or adult student may revoke consent at any time before the completion of the activity or action for which they have given consent. If a parent or adult student revokes consent, that revocation is not retroactive. A parent or adult student may revoke consent for evaluation or reevaluation that has not yet been conducted. A parent or adult student may revoke consent for initial provision of special education services before the initiation of those services.

(5) Other consent requirements:

(a) The school district must document its reasonable efforts to obtain parent consent in accordance with OAR 581-015-2195(3).

(b) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent does not respond to a request

ALL content areas must be completed when *Prior Written Notice* is provided. This includes:

- ☐ A description of the action that is being proposed, or refused by the team;
- ☐ An explanation of why the team is proposing, or refusing the action;
- ☐ A description of any other options the team considered and reasons why those options were rejected;
- ☐ A description of each evaluation procedure, assessment, test, record, or report the team used as a basis for the proposed or refused action;
- ☐ A description of any other factors that are relevant to the team's proposal or refusal;
- ☐ A statement that parents of a child with a disability have procedural safeguard rights, and if it is not an initial referral for evaluation, the means by which the parent may obtain a copy;
- ☐ Sources the parent may contact to obtain assistance in understanding their procedural safeguards.

No section of the prior written notice can be left blank or marked with an N/A.

When is Consent required?

Informed written parent consent is required prior to any evaluation and prior to the initial provision of special education services.

☐ *Consent for Evaluation:* You must provide *Prior Written Notice* and make reasonable efforts to obtain informed written consent from the parent before you conduct an evaluation to determine initial eligibility, or continue eligibility for special education and related services.

If the parent does not provide consent, or does not respond to a request for consent for an initial evaluation, the district may, but is not required to, pursue the initial evaluation using mediation or due process. The district does not violate its child find obligations if it decides not to pursue the evaluation. *Always consult with an administrator in the Student Services Office if a parent refuses to give consent for initial evaluation.*

If the district is attempting to evaluate for the purpose of continuing eligibility and the parent does not respond to a request for consent, the district must clearly document the attempts made to gain consent and then may move forward with evaluation EXCEPT for personality and/or intelligence testing. *Always consult with an administrator in the Student Services Office if a parent refuses to give consent for reevaluation prior to going forward with any evaluation.*

☐ *Consent for Initial Provision of Special Education Services* (often referred to as Consent for Initial Placement into Special Education): The district must provide Prior Written Notice and make reasonable efforts to obtain informed written consent from the parent before the initial provision of special education and related services to the child. This includes students who move into Oregon with an eligibility from another state and are found eligible for special education services in Oregon for the first time, and students whose eligibility was previously terminated and are re-referred and found eligible. It is the district's practice

for consent:

- (A) The school district may not use mediation or due process hearing procedures to seek consent; and
- (B) The school district is not required to consider the child as eligible for special education services.
- (c) A refusal to consent to one service or activity may not be used to deny the parent or child any other service, benefit, or activity of the school district, except as provided in this rule.

581-015-2095: Exceptions to Consent

(1) Written parent or adult student consent is not required before:

- (a) Reviewing existing data as part of an evaluation or a reevaluation;
- (b) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children; or
- (c) Conducting evaluation tests, procedures or instruments that are identified on a child's IEP as a measure for determining progress; or
- (d) Conducting a screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.

(2) Consent for initial evaluation for wards of the state: If a child is a ward of the state and is not residing with the child's parent, the public agency is not required to obtain informed written consent from the parent for an initial evaluation to determine whether the child is a child with a disability if:

- (a) Despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;
- (b) The rights of the parents of the child have been terminated in accordance with state law; or
- (c) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(3) If, after reasonable efforts to obtain parent consent, the parent does not respond, the school district may conduct a reevaluation without consent, unless the reevaluation is an individual intelligence test or test of personality. "Reasonable efforts" means that the school district has used procedures

to obtain Consent for Initial Provision of Special Education services after the student's IEP is developed. This sequence is more effective to parents being fully informed.

Note: Initial placement into special education should not be confused with the annual placement determination for a student who is receiving special education and related services, for which consent is not required.

In all situations where we are attempting to obtain informed written consent for evaluation or initial provision of special education services from the parent, district personnel must clearly document all reasonable measures made to obtain consent. Reasonable measures include telephone calls, copies of consent documents sent to the parents and responses received, and records of visits made to the parent's home. At least one of the contacts should include a certified letter so that there is documentation the parent received the request for consent.

If the parent does not respond, or refuses to consent for initial provision of special education and related services, the district may not seek to provide services to the child by using mediation or due process. In this case, we are not considered to be in violation of the requirement to make available a free appropriate public education to the child. *If a parent does not respond, or refuses to consent for initial provision of special education and related services, contact the Student Services Office immediately.*

Are there times when consent for evaluation is not required?

Yes, consent is not required:

- ☐ For the review of existing data;
- ☐ For assessments that are given to all students;
- ☐ For assessments that are already listed on the student's IEP as tools for measuring progress; or,
- ☐ If the district has made reasonable effort to obtain consent for reevaluation and the parent has failed to respond (and the reevaluation that consent is being requested for is not an intelligence or personality test).

Consent is also not required when a hearings officer determines the need for evaluation of a student.

Who is responsible for obtaining consent?

The case manager is responsible for obtaining informed written parent consent prior to evaluation of a child. Informed parent consent means the parent understands what they are giving their consent for. When completing the consent form, acronyms and jargon may not be used. When completing the content sections of the consent form use straightforward, simple language that reflects the team's decisions.

consistent with OAR 581-015-2195(3).

(4) Written consent is not required if an administrative law judge determines under OAR 581-015-2375 that the evaluation or reevaluation is necessary to ensure that the child is provided with a free appropriate public education.

The test(s) the district is requesting parent consent for must be described sufficiently so the parent understands what skills or functions the test assesses. *Always write out the full name of an assessment on the consent form.* If the test name includes a description of the skill or function that is being assessed it is not necessary to provide a description of the assessment on the consent form. If the name of the assessment does not describe the skill or function being assessed, include a brief description of the assessment on the consent form. For example, "The Woodcock-Johnson Psycho-Educational Battery" is the full name of an assessment. In this case the name does not describe what the test assesses so a brief description such as "a test of cognitive ability and achievement" must accompany the name of the assessment. The "Woodcock Reading Mastery Test" is also the full name of an assessment, but in this case the name includes what skill the test is assessing so the full name of the assessment is all that would be required.

If a parent has given written consent, can he or she revoke consent?

Yes:

- ☐ Parents may revoke their consent at any time before the completion of the evaluation for which they have given consent. However, revocation is not retroactive. Parents may only revoke consent for evaluation that has not yet been conducted.
 - If a parent has provided written consent for evaluation to the district and withdraws it prior to the completion of the evaluation, cease all further evaluation activities and contact Student Services. At this point the district will decide whether it is possible to continue to provide an education to the child without special education involvement, or, to pursue mediation or a Due Process hearing in order to go forward with the evaluation without parent consent.
 - In this situation the parent must be provided *Prior Written Notice of Special Education Action* documenting the district's decision not to continue the evaluation due to the parent's revocation of consent. In this case the district requires the notice be provided to the parent in person or sent by certified mail.
- ☐ Parents may unilaterally revoke their consent for special education and related services at any time. In this situation the parent is revoking their consent for *all* special education and related services. A parent request to unilaterally revoke consent for special education and related services must be in writing. If a parent makes this written request, complete the process outlined on page 40 of this manual. *Additional guidance for this provision is also located in the resource section of this manual.*

Do these requirements apply to all resident students of the district?

	<p>No. If a child is home schooled or parentally placed in a private school by his or her parents and the parent refuses to give consent for initial evaluation or does not respond to a request for consent, the district may not use mediation or due process to seek consent; and the district is not required to consider the child as eligible for special education services.</p>
<p>Required district forms: The forms listed below must be used under certain circumstances requiring Prior Notice and Consent. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Prior Notice about Evaluation/ Consent for Evaluation; <input type="checkbox"/> Prior Notice and Consent for Initial Provision of Special Education; <input type="checkbox"/> Prior Notice of Special Education Action <input type="checkbox"/> Notice of Team Meeting 	

Section 6: Eligibility	
<p>581-015-2125: Interpretation of Evaluation Data In interpreting evaluation data for the purpose of determining if a child is a child with a disability under OAR 581-015-2130 through 581-015-2180, and the educational needs of the child, each team must:</p> <ul style="list-style-type: none"> (1) Draw upon information from a variety of sources, including but not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior; and (2) Ensure that information obtained from all these sources is documented and carefully considered. <p>581-015-2120: Determination of Eligibility (1) Upon completing the administration of assessments and other evaluation materials, a team must determine whether the child is a child with a disability under OAR 581-015-2130 through 581-015-2180 and the educational needs of the child.</p> <ul style="list-style-type: none"> (a) The team must include the parent, in accordance with OAR 581-015-2190, and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. This team may be the child's IEP team. (b) For a child suspected of having a specific learning disability, the team must meet the requirements of OAR 581-015-2170. (2) The team must prepare an evaluation report and written statement of eligibility. <ul style="list-style-type: none"> (a) The evaluation report(s) must describe and explain the results of the evaluation conducted. (b) The written statement of eligibility must include: <ul style="list-style-type: none"> (A) A list of the evaluation data considered in determining the child's eligibility; (B) A determination of whether the child meets the minimum evaluation criteria for one of the disability categories in OAR 581-015-2130 through 581-015-2180 or OAR 581-015-2795; (C) A determination of whether the primary basis for the suspected disability is: <ul style="list-style-type: none"> (i) A lack of appropriate instruction in reading 	<p>When the evaluation process is completed the Case manager convenes a team to determine whether or not a child is or continues to be a child with a disability. This team reviews the evaluation findings to determine whether or not the student meets the criteria for a suspected disability(ies) and to determine the educational needs of the child. This decision must take place within 60 school days of the date the parent gave written consent for evaluation or the date Prior written Notice was provided to the parent indicating no additional evaluation was necessary.</p> <p>Prior to the eligibility meeting the Case manager should gather all assessment results, prepare and send out a meeting notice to all required team members, and prepare the relevant eligibility form(s) by recording all required assessment information. It is expected that the evaluation summary report is completed before the meeting date and is sent to all team members for review prior to the meeting. The evaluation report should include documentation of all sources of information being used to determine eligibility, and must explain the team's interpretation of the data.</p> <p>Who is required to participate in the eligibility determination? A team is required to determine eligibility for special education services. For all disability categories, this team must include the parent and two or more qualified professionals, at least one of whom is knowledgeable and experienced in the evaluation and education of children with the suspected disability. If a Specific Learning Disability is suspected, the team must also include the regular education teacher (or if the child does not have a regular education teacher, a regular classroom teacher qualified to teach students of the same age), and a person qualified to conduct individual diagnostic evaluations of children, such as a school psychologist, speech-language pathologists, or other qualified professional. This team may be the child's IEP team.</p> <p>If the criteria for a disability category are met, is the student eligible for special education services? Not always. In addition to the student meeting the criteria for a specific disability, the team must also determine that the student needs special education services in order to access and progress in the general curriculum.</p> <p>For example, a student may meet the eligibility criteria for a Hearing Impairment, but with the use of hearing aids and an FM system is able to access and progress in the general education curriculum without specially designed instruction. In this case the team would determine the student is not eligible for special education as there is no identified need for specially designed instruction; the student only requires hearing aids and an FM system during curricular and</p>

<p>(including the essential components of reading) or math; or</p> <p>(ii) Limited English proficiency;</p> <p>(D) A determination of whether the child's disability has an adverse impact on the child's educational performance;</p> <p>(E) A determination of whether, as a result of the disability, the child needs special education services; and</p> <p>(F) The signature of each member of the team indicating agreement or disagreement with the eligibility determination.</p> <p>(c) For a child suspected of having a specific learning disability, the team's written report and documentation of determination of eligibility must meet the requirements of OAR 581-015-2170.</p> <p>(3) The team must determine a child to be eligible under this rule if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade.</p> <p>(4) For a child who may have disabilities in more than one category, the team need only qualify the child under one disability category. However, the child must be evaluated in all areas related to the suspected disability or disabilities, and the child's IEP must address all of the child's special education needs.</p> <p>(5) The team may not find a child eligible for special education services if:</p> <p>(a) The determinant factor for that eligibility decision is:</p> <p>(A) Lack of appropriate instruction in reading, including the essential components of reading instruction, or lack of appropriate instruction in math; or</p> <p>(B) Limited English proficiency; and</p> <p>(b) The child does not otherwise meet the eligibility criteria under OAR 581-015-2130 through 581-015-2180.</p> <p>(6) The school district must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent at no cost.</p>	<p>extracurricular activities.</p> <p>What happens if the team determines the student is not eligible for special education?</p> <p>If, as part of an initial or reevaluation, a student is found not eligible for special education services, the team must complete all eligibility paperwork documenting this decision. If the team identified the need for interventions, modifications, and/or accommodations, Section 504 eligibility may be considered at this point, however, all 504 procedures and standards must be met. The counselor or other appropriate building personnel take the responsibility for the Section 504 process.</p> <p>The Case manager must provide the parent a copy of the <i>Eligibility Determination</i>, <i>Prior Notice of Special Education Action</i>, and any other documents related to the evaluation and eligibility decision. The Case manager organizes the student file using the district's guidelines for IDEA files and stores the file with other inactive student files.</p> <p><i>Note: If a student's eligibility terminates due to graduation with a regular diploma or due to exceeding the age of eligibility for FAPE, the case manager must provide the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting the student's postsecondary goals. This is accomplished by updating the Present Levels of Academic and Functional Performance using the student's most current IEP and including any necessary supports or modifications that the student needs to successfully continue toward his or her post high school goal(s).</i></p> <p>What happens if the team determines the student is eligible for special education?</p> <p>If a student is found eligible for special education services, and it is the initial eligibility, the case manager must hold an IEP meeting within 30 calendar days of the eligibility determination. The case manager also organizes the evaluation information into a "SPED file".</p> <p>The case manager must provide the parent with copies of the <i>Eligibility Determination</i>, <i>IEP Meeting Notice</i>, and <i>Prior Notice of Special Education Action</i>, (unless this is the initial eligibility, which instead requires a <i>Prior Notice and Consent for Initial Provision of Special Education</i> instead of an "Action" form).</p> <p>What if a student meets eligibility requirements for more than one disability category?</p> <p>There is no requirement under the IDEA to determine multiple disabilities. When making an eligibility determination, the eligibility team should consider the disability category that most accurately describes the student's primary handicapping condition. Even though some disability categories are difficult for parents and teachers to accept, it is important to be accurate in identifying the primary disability. The nature of a student's disability relates directly to the design of appropriate instruction, transition planning, and program components.</p>
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	<p>Certain disability categories provide supports to a student through community assistance and services. While the team should never choose a disability category based solely on this information, this discussion may assist the team in choosing the disability category that can most comprehensively address the student needs. However, the team must always ensure the student meets the specific criteria for a disability category prior to determining the student eligible.</p> <p>Can eligibility be determined without the parent? Yes, the eligibility team may move forward with determining eligibility without the parent in attendance if the parent was provided notice sufficiently in advance to have the opportunity to attend. A Case Manager should not immediately cancel an eligibility meeting if the parent does not show up or calls last minute to say he/she cannot make the meeting. If this occurs and the parent had notice sufficiently in advance, the team should go forward with the meeting to ensure eligibility is determined within the 60 school day timeline, (extending the timeline to accommodate parent schedule is not a legally allowable exception under the IDEA). If the parent is not in attendance at the meeting the case manager must schedule an additional time to meet with the parent to review the evaluation results and eligibility determination, to have the parent sign the eligibility document indicating their agreement/disagreement with the team determination, and to gain consent in the case of a student found eligible under the IDEA for the first time. The case manager must also ensure the parent is provided a copy of the evaluation report and all related documents.</p> <p>If a medical statement is required for the disability category being considered, can the eligibility team move forward with determination without this statement? No. If a medical statement is required for eligibility determination, the team must have this statement prior to being able to determine eligibility.</p> <p>Cross Reference: Disability specific eligibility criteria are found in the following OAR's, located in the Evaluation section of this manual: OAR 581-015-2130: Autism Spectrum Disorder OAR 581-015-2135: Communication Disorder OAR 581-015-2140: Deafblindness OAR 581-015-2145: Emotional Disturbance OAR 581-015-2150: Hearing Impairment OAR 581-015-2155: Mental Retardation OAR 581-015-2160 Orthopedic Impairment' OAR 581-015-2165: Other Health Impairment</p>
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OAR 581-015-2170 Specific Learning Disability
OAR 581-015-2175 Traumatic Brain Injury
OAR 581-015-2180 Vision Impairment

Required district forms: The forms listed below are required at certain times or for certain actions as part of Eligibility Determination for special education. Not all forms will be required for every student as part of the process. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting
- ☐ Eligibility Determination(by disability);
- ☐ Summary of Evaluation Report;
- ☐ Notice of Special Education Action;
- ☐ Summary of Academic Achievement and Functional Performance;
- ☐ *Oregon Standard IEP (SEAS)*;
- ☐ Prior Notice of Special Education Action;
- ☐ Prior Notice and Consent for Initial Provision of Special Education

Section 7: Parent Participation	
<p>581-015-2190: Parent Participation – General</p> <p>(1) School districts must provide one or both parents with an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the child, and the provision of a free appropriate public education to the child.</p> <p>(2) Meeting Notice:</p> <p>(a) School districts must provide parents with a written notice of the meeting sufficiently in advance to ensure that one or both parents will have an opportunity to attend.</p> <p>(b) The written notice must:</p> <p>(A) State the purpose, time and place of the meeting and who will attend;</p> <p>(B) Inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child;</p> <p>(C) Inform the parent that the team may proceed with the meeting even if the parent is not in attendance; and</p> <p>(D) Inform the parent of whom to contact before the meeting to provide information if they are unable to attend.</p> <p>(3) The school district must take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.</p> <p>(4) A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.</p> <p>(5) Conducting a meeting without a parent in attendance: A meeting may be conducted without a parent in attendance if the school district has given the parent notice under subsection (2), or, for IEP or placement meetings, in accordance with OAR 581-015-2195.</p> <p>(6) Transfer of rights:</p> <p>(a) The right to parent participation transfers to an adult</p>	<p>The district is required to provide parents an opportunity to participate in meetings held for the identification, evaluation, IEP, educational placement, and provision of a FAPE for their child. The case manager must provide parents with written notice of any meeting sufficiently in advance to ensure that one or both parents have an opportunity to attend. If the meeting is an IEP meeting the district and parent must identify a mutually agreeable time and place for the meeting.</p> <p><i>Note:</i> Parents do not need to be invited to every meeting a school has about a student with a disability. You can hold meetings to discuss evaluation results, formulate proposals or responses to proposals, to discuss scheduling, curriculum, and to discuss planning for a student.</p> <p>However, decisions that affect a child's special education program or placement (think of these as decisions that are documented in the student's blue file) cannot be made in their final form without holding the appropriate meeting with a fully formulated team, which must include the parent.</p> <p>Are there content requirements for written notice of a team meeting?</p> <p>Yes, the written notice must:</p> <ul style="list-style-type: none"> <input type="checkbox"/> State the purpose, time and place of the meeting and who will attend; <input type="checkbox"/> Inform the parent that they may invite other individuals whom they believe have knowledge or special expertise regarding the child; <input type="checkbox"/> Inform the parent that the team may proceed with the meeting even if the parent is not in attendance; and, <input type="checkbox"/> Inform the parent of whom to contact before the meeting to provide information if they are unable to attend. <p>We must also ensure the parent understands what takes place at the meeting; including arrangement for an interpreter for parents who are deaf or whose native language is other than English.</p> <p>Are the parent participation requirements the same for all types of meetings?</p> <p>No, meetings regarding the identification, evaluation, and educational placement of the child, require the district to provide one or both parents the opportunity to participate. IEP meetings have the following additional parent participation requirements:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Scheduling the meeting at a mutually agreed on time and place; <input type="checkbox"/> If neither parent can attend, you must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits.

student under OAR 581-015-2325.

(b) After the transfer of rights to an adult student under OAR 581-015-2325, the school district must provide written notice of meetings to the adult student and parent, if the parent can be reasonably located. A parent receiving notice of a meeting under this subsection is not entitled to attend the meeting unless invited by the adult student or by the school district.

581-015-2195: Additional Parent Participation Requirements for IEP and Placement Meetings

(1) Parent Participation: School districts must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:

(a) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(b) Scheduling the meeting at a mutually agreed on time and place.

(2) Other Methods to Ensure Parent Participation: If neither parent can attend, the school district must use other methods to ensure parent participation, including, but not limited to, individual or conference phone calls or home visits.

(3) Conducting an IEP/Placement Meeting without a Parent in Attendance: An IEP or placement meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend.

(a) If the school district proceeds with an IEP meeting without a parent, the district must have a record of its attempts to arrange a mutually agreed on time and place such as:

(A) Detailed records of telephone calls made or attempted and the results of those calls;

(B) Copies of correspondence sent to the parents and any responses received; and

(C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(b) The Department considers school district attempts to convince parents to attend sufficient if the school district:

(A) Communicates directly with the parent and arranges a mutually agreeable time and place, and sends written notice required under OAR 581-015-2190(2) to confirm this arrangement; or

Do parent participation rights transfer to the student when rights transfer at the age of majority?

Yes. Parent participation rights transfer to the student at the age of majority. After rights transfer to the adult student the district must provide written notice of meetings to the adult student and parent, if the parent can be located.

Note: In this case a parent receiving notice of a meeting is not entitled to attend the meeting unless invited by the adult student or by the school. If invited the parent would serve on the team as a person with special knowledge or expertise about the child.

Can a meeting be conducted without a parent?

Yes, under certain circumstances. A meeting for the purpose of identification, eligibility, or placement of the child may be conducted without a parent in attendance if you have given the parent notice sufficiently in advance to allow the parent the opportunity to attend.

An IEP meeting may be conducted without a parent in attendance if:

- The school is unable to convince the parents that they should attend. In this situation, you must have a record of the attempts to arrange a mutually agreed upon time and place. These attempts should include detailed records of telephone calls made or attempted and the results of those calls; copies of all correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

Your attempts to convince parents to attend are considered sufficient if you have communicated directly with the parent and arranged a mutually agreeable time and place, and sent written notice to confirm this arrangement; or if you send written notice proposing a time and place for the meeting and state in the notice that the parent may request a different time and place, and you confirm through direct communication that the parent received the notice.

- You have arranged a mutually agreed upon time and place with the parent, the parent notifies you at the last minute that they are unable to attend either face to face or via a conference call, and rescheduling the meeting at a time the parent can attend will cause you to go over the 365 day timeline. In this situation explain to the parent that IDEA requires you to hold an IEP meeting at least once every 365 days and that rescheduling the meeting will result in exceeding this timeline. Explain to the parent the district's obligation to continue with the meeting without their attendance due to the IDEA requirement to meet at least every 365 days and let them know the IEP will not be finalized until they have had a chance to give input. If the parent becomes agitated or upset that the meeting is scheduled to continue, contact the Student Services office.

The case manager should clearly document on the meeting notice all communication regarding the scheduling/rescheduling of meetings with the parent.

(B) Sends written notice required under OAR 581-015-2190(2) proposing a time and place for the meeting and states in the notice that the parent may request a different time and place, and confirms that the parent received the notice.

(c) "Sufficient attempts" may all occur before the scheduled IEP or placement meeting, and do not require the scheduling of multiple agreed-upon meetings unless the team believes this would be in the best interest of the child.

(4) Considering Transition: If a purpose of the meeting is to consider postsecondary goals and transition services for a student, the written notice required by OAR 581-015-2190(2) must also:

(a) Indicate this purpose;

(b) Indicate that the school district will invite the student; and

(c) Identify any other agency that will be invited to send a representative in accordance with OAR 581-015-2210(2)(b).

(5) The school district must give the parent a copy of the IEP at no cost to the parent. If the parent does not attend the IEP meeting, the school district must ensure that a copy is provided to the parent.

(6) When conducting IEP team meetings and placement meetings, the parent of a child with a disability and a school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

581-015-2320: Surrogate Parents

(1) School districts must ensure that the rights of a child with a disability, or suspected of having a disability, are protected by appointing a surrogate parent not more than 30 days after a determination by the district that the child needs a surrogate because:

(a) No parent (as defined in OAR 581-015-2005(20)) can be identified or located after reasonable efforts;

(b) The child is a ward of the state and there is reasonable cause to believe that the child has a disability; or

(c) The child is an unaccompanied homeless youth.

(2) The school district may not appoint a surrogate solely because the parent or adult student to whom rights have transferred is uncooperative or unresponsive to special education needs.

(3) Each school district must have a method for determining whether a child needs a surrogate parent and for assigning a

Surrogate Parents

How does IDEA 2004 define "parent"?

IDEA 2004 revised the definition of parent. In response, Oregon Administrative Rule 581-015-2000(21) was revised to define parent as:

(21) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent,

stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

When should the district consider the appointment of a surrogate parent?

IDEA requires the district to appoint a surrogate parent not more than 30 days after determination that the child needs a surrogate because:

- No parent can be identified or located after reasonable efforts;
- The child is a ward of the state and there is reasonable cause to believe that the child has a disability;
- Rights have transferred at the age of majority and the adult student requests a surrogate; or,
- The child is an unaccompanied homeless youth.

The district may not appoint a surrogate solely because the parent is uncooperative or unresponsive to special education needs.

How is a surrogate selected?

There are specific requirements a person must meet to be considered for the role of a surrogate parent. The district must ensure that any person being considered:

- ☐ Is not employed by the district, the Oregon Department of Education, or any other agency that is involved in the education or care of the child, including DHS;
- ☐ Is free of any personal or professional interest that conflicts with representing the child's

surrogate parent to the child. The school district must ensure that each person approved to serve as a surrogate:

- (a) Is not an employee of the school district or the Department or any other agency that is involved in the education or care of the child;
- (b) Is free of any personal or professional interest that conflicts with representing the child's special education interests; and
- (c) Has knowledge and skills that ensure adequate representation of the child in special education decisions.

(4) For an unaccompanied homeless youth, appropriate staff of emergency shelters, independent living programs and street outreach programs may be appointed as a temporary surrogate parent without regard to subsection (3)(a) until a surrogate can be appointed that meets all of the requirements of subsection (3).

(5) An appointed surrogate parent has all of the special education rights and procedural safeguards available to the parent.

(6) A surrogate is not considered an employee of a school district solely on the basis that the surrogate is compensated from public funds.

(7) The duties of the surrogate parent are to:

- (a) Protect the special education rights of the child;
- (b) Be acquainted with the child's disability and the child's special education needs;
- (c) Represent the child in all matters relating to the identification, evaluation, IEP and educational placement of the child; and
- (d) Represent the child in all matters relating to the provision of a free appropriate public education to the child.

(8) A surrogate has the same rights granted to a parent in a hearing under OAR 581-015-2360, and the procedures regarding hearings in OAR 581-015-2340 through 581-015-2385 apply.

(9) A parent, or an adult student to whom rights have transferred, may give written consent for a surrogate to be appointed.

- (a) When a parent or an adult student requests that a surrogate be appointed:
 - (A) The parent or adult student retains all parental rights to receive notice under OAR 581-015-2190, 581-015-2195, 581-015-2310, and 581-015-2315 and all of the information provided to the surrogate.

special education interests; and,

- ☐ Has knowledge and skills that ensure adequate representation of the child in special education decisions.

For an unaccompanied homeless youth, appropriate staff of emergency shelters, independent living programs and street outreach programs may be appointed as a temporary surrogate parent until a surrogate can be appointed that meets all of the above requirements.

What does a surrogate parent do?

The duties of the surrogate parent are to protect the special education rights of the child by understanding the child's disability and special education needs. The surrogate parent represents the child in all matters relating to the identification, evaluation, IEP and educational placement of the child; and the provision of a free appropriate public education. An appointed surrogate parent has all of the special education rights and procedural safeguards that are made available to the parent. However, a person appointed as surrogate can not be held liable by the district for actions they take in good faith or on behalf of the parent in protecting the special education rights of the child.

Surrogate parents do not have any parental rights other than participation in the special education process. For example, unless a surrogate parent has been given other parental rights by a court or the actual parent of the student, the surrogate may not perform many typical parental duties.

Can a parent request the appointment of a surrogate?

Yes, a parent may give written consent for a surrogate to be appointed. When a parent requests the district appoint a surrogate, the surrogate alone is responsible for all matters relating to the special education of the child unless the parent revokes consent for the surrogate's appointment. *The parent retains all parental rights to receive notice and all information provided to the surrogate.* The parent may revoke consent at any time by providing a written request to the district to revoke the surrogate's appointment.

Once a surrogate is appointed can the district change the surrogate?

Yes, the school district may change or terminate the appointment of a surrogate if any of the following situations occur:

- ☐ The person the district appointed as a surrogate is no longer willing to

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	<p>serve in this role;</p> <p><input type="checkbox"/> Procedural safeguard rights have transferred at the age of majority to the student; or the student graduates with a regular diploma;</p>
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(B) The surrogate, alone, is responsible for all matters relating to the special education of the child unless the parent or adult student revokes consent for the surrogate's appointment.

(b) The parent or adult student may revoke consent at any time by providing a written request to revoke the surrogate's appointment.

(10) The school district may change or terminate the appointment of a surrogate when:

(a) The person appointed as surrogate is no longer willing to serve;

(b) Rights transfer to the adult student or the child graduates with a regular diploma;

(c) The child is no longer eligible for special education services;

(d) The legal guardianship of the child is transferred to a person who is able to carry out the role of the parent;

(e) A foster parent is identified who can carry out the role of parent under OAR 581-015-2000(20);

(f) The parent, who previously could not be identified or located, is now identified or located;

(g) The appointed surrogate is no longer eligible;

(h) The child moves to another school district; or

(i) The child is no longer a ward of the state or an unaccompanied homeless youth.

(11) A person appointed as surrogate will not be held liable for actions taken in good faith on behalf of the parent in protecting the special education rights of the child.

- ☐ The student moves to the district from another district;
- ☐ The student is no longer eligible for special education services;
- ☐ The legal guardianship of the student transfers to a person who is able to carry out the role of the parent;
- ☐ A foster parent is identified who can carry out the role of parent;
- ☐ The parent, who previously could not be identified or located, is now identified or located;
- ☐ The surrogate the district appointed is no longer eligible (for example: they are now employed by the district);
- ☐ The student has moved and is no longer a resident of the district; or,
- ☐ The student is no longer a ward of the state or an unaccompanied homeless youth.

How do I go about having a Surrogate appointed?

First, using the above criteria, determine there is a need for a surrogate. If you have a question about other children, such as an unaccompanied youth or a student living with a relative, contact an administrator in the Student Services Office. You will be asked to complete a form that gives background about the student (the *Surrogate Parent Program* form) and his or her placement. The person who desires to be appointed surrogate also fills out an application (*Surrogate Parent Program* application) that documents that he or she does not have any conflicts of interest and is familiar with the IDEA. These forms may be obtained on the district website.

Required district forms: The forms listed below are required at certain times for parent participation. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting
- ☐ *Prior Notice of Special Education Action;*
- ☐ Surrogate parent forms

Additional Resources:

- ☐ Surrogate Parents : Q & A: <http://www.ode.state.or.us/pubs/faq/sped/surrogateqanda.pdf>

Section 8: IEP Development

581-015-2215: Oregon Standard IEP

(1) Each school district must use the Oregon Standard IEP form in the development, review and revision of all IEPs, unless an alternate form is approved under subsection (4).

(2) A school district may use an alternate form in the development, review and revision of IEPs if the Department approves the alternate form.

(3) Criteria for approval. The criteria for approval of alternate forms includes, but is not limited to:

(a) Whether the alternate form meets the requirements for the contents of an IEP under OARs 581-015-2200, 581-015-2205, 581-015-2330, and 581-015-2065; and

(b) Whether use of the alternate form will reduce unnecessary or confusing paperwork.

(4) Approval process.

(a) Within 10 days of the established date of submission of the alternate form for approval, the Department will decide:

(A) Whether the alternate form is approved or disapproved; and

(B) Any conditions that apply to the use of the alternate form.

(b) A school district may ask for a reconsideration of the decision within 30 days of receiving the Department's decision in subsection

(3). The Department will issue a written response to the district of the reconsideration within 30 days of receiving the request.

(c) If a school district changes or modifies the approved alternate form, the district must submit the form for approval before its use.

581-015-2210: IEP Team

(1) School districts must ensure that the IEP Team for each child with a disability includes the following participants:

(a) One or both of the child's parents, except as provided in OAR 581-015-2195;

(b) The child where appropriate;

(c) At least one regular education teacher of the child, if the child is or may be participating in the regular education environment, consistent with section (4) of this rule;

(d) At least one special education teacher of the child or, if

IDEA entitles students with disabilities a Free Appropriate Public Education (FAPE). This means the district is required to provide students with disabilities an education that is designed to meet their unique needs at no cost to the parent. The district makes this offer of FAPE through the IEP. The IEP describes the special education and related services the student requires in order to access, participate, and progress in the general curriculum, and to prepare for successful post school outcomes. As defined in IDEA, special education means specially designed instruction. This is instruction that is adapted in content, methodology, and/or delivery of instruction to meet the unique educational needs of students and to ensure access to the general curriculum, so students with disabilities can meet the educational standards of the district that apply to all children.

Who is responsible for ensuring an IEP is developed, implemented, and reviewed as required?

The case manager assigned to the student facilitates the development, implementation, review, and revision of an IEP.

When is an IEP required to be in place?

If initial eligibility has just been established an IEP must be developed within 30 calendar days of the eligibility determination. For all other students with disabilities, an IEP must be in place at the beginning of each school year. The IEP must be in affect before special education and related services are provided, with implementation expected to begin as soon as possible after the IEP is developed. Special education services, modifications, and supports must be provided in accordance with the IEP. Once an IEP has been developed and as long as the student continues to be eligible for special education services, the IEP must be reviewed and revised at least once every 365 days.

Are there other times when an IEP meeting may be called other than the annual review?

Yes. There are circumstances when an IEP meeting may be requested outside the required annual review:

☐ **Parent request:** Parents can request an IEP meeting if they believe the IEP is not being implemented, is no longer effective in meeting the students' needs, or if they would like the team to consider revising any aspect of the child's current special education and related services.

☐ **Inadequate progress:** If the student is not making adequate progress toward the annual IEP goals the case manager must reconvene the IEP team to review and revise the IEP as appropriate. The team should consider whether there is the need for additional evaluation

appropriate, at least one special education provider of the child;

(e) A representative of the school district, who may also be another member of the team, who is:

(A) Qualified to provide, or supervise the provision of, specially designed instruction;

(B) Knowledgeable about the general education curriculum;

(C) Knowledgeable about district resources; and

(D) Authorized to commit district resources and ensure that services set out in the IEP will be provided.

(f) An individual who can interpret the instructional implications of the evaluation results (who may also be another member of the team);

(g) Other individuals, including related services personnel as appropriate, invited by:

(A) The parent, whom the parent determines to have knowledge or special expertise regarding the child; or

(B) The school district, whom the school district determines to have knowledge or special expertise regarding the child; and

(h) Transition services participants, as described in section (2) of this rule.

(2) If a purpose of the meeting will be consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals:

(a) The school district must invite the student. If the student does not attend the meeting, the school district must take other steps to ensure that the student's preferences and interests are considered.

(b) To the extent appropriate, with consent of the parents or adult student, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(3) IEP team attendance:

(a) A member of the IEP team described in subsection (1)(c) through (1)(f) is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the school district agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified

as part of this process. The case manager is responsible for recognizing this situation exists and convening a meeting. When the required IEP progress report is completed, if the case manager indicates the student is not making adequate progress toward annual goals, an IEP meeting *must be* held to revise the IEP.

☐ **New student to the district:** If a student enrolls in the district as a student with a disability the student's current IEP must be reviewed to determine if the IEP can be implemented exactly as written. An IEP meeting should be called to revise the IEP, if needed.

☐ **Disciplinary action:** If the student is subject to disciplinary action an IEP meeting may need to be held to consider the infraction and determine additional behavioral supports that may be needed to assist with the infraction not reoccurring.

☐ **Teacher request:** Any member of the IEP team may request an IEP meeting if the individual believes the students special education and related services need to be revised to ensure the provision of FAPE.

☐ **Schedule change:** If a student's schedule changes in a way that affects the special education and related services to be provided to the student as described on the current IEP, the IEP should be revised to ensure the provision of FAPE continues for the student.

☐ **Prior to considering a change in placement:** If the district is considering, or a parent requests a change in placement for a student the IEP team must convene, review and revise the IEP if appropriate, prior to considering any change in placement.

☐ **Frequent or prolonged absence:** If a student is absent frequently, or for a prolonged period of time due to illness or family situation, an IEP meeting should be called to address the student's current needs.

☐ **New information:** If the parent provides new information to the district, the IEP should be reviewed and revised, if appropriate, to ensure the continued provision of FAPE.

Are there required IEP team members?

Yes, IEP teams must include the following participants:

☐ One or both of the child's parents,

☐ The child where appropriate. Students of transition age, (beginning with the first IEP that will be in effect when they turn 16) are required participants in the development of their IEP. The district must ensure they invite the student to these meetings. If the student does not attend the meeting, the district must take other steps to ensure that the student's preferences and interests are considered and documented on the IEP.

☐ The regular education teacher of the child, if the child is or may be participating in the regular education environment. The role of the regular education teacher is to assist the team in understanding the content of the general curriculum for the school year so they can collaboratively determine the need for specially designed instruction, supplementary aids and services, program modifications, and appropriate positive behavioral interventions, supports, and strategies the child needs, as well as the supports for school personnel that will be provided to staff on behalf of the child.

or discussed at the meeting.

(b) A member of the IEP team described in subsection (1)(c) through (1)(f) may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if:

(A) The parent and school district consent in writing to the excusal; and

(B) The member submits, in writing to the parent and the IEP team, input into the development of the IEP before the meeting.

(4) The regular education teacher of the child must participate as a member of the IEP team, to the extent appropriate, in the development, review, and revision of the child's IEP, including assisting in the determination of:

(a) Supplementary aids and services, program modifications and supports for school personnel that will be provided for the child; and

(b) Appropriate positive behavioral interventions and supports, and other strategies for the child.

581-015-2200: Content of IEP

(1) The individualized education program (IEP) must include:

(a) A statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum.

(b) A statement of measurable annual goals, including academic and functional goals (and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of short-term objectives) designed to:

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum, and

(B) Meet each of the child's other educational needs that result from the child's disability.

(c) A description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of

☐ At least one special education teacher of the child or, if appropriate, at least one special education provider of the child;

☐ An individual who can interpret the instructional implications of the evaluation results (who may also be another member of the team);

☐ The District Representative, (who may also be another member of the team). To serve in the role of district representative a person must be:

(A) Qualified to provide, or supervise the provision of, special education;

(B) Knowledgeable about the general education curriculum;

(C) Knowledgeable about district resources; and

(D) Authorized to commit district resources and ensure that services set out in the IEP will be provided.

In addition to the required members of an IEP team, other individuals may be invited by the parent or the district because they are determined to have knowledge or special expertise regarding the child. The district may invite related service providers or may choose to involve those individuals by obtaining written input to IEP development.

For students of transition age, to the extent appropriate and with consent of the parents or adult student, the district must also invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Can a required IEP team member be excused from attending the meeting?

Yes. There are specific situations when an IEP team member may be excused:

☐ A required member of the IEP team may be excused from attending an IEP meeting, in whole or in part, if the parent and an authorized official of the district (the team's "District Representative") agree in writing that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. The agreement must be documented, using the *Agreement between Parent and District* form. The parent must be notified and sign the agreement PRIOR to the meeting.

☐ A required member of the IEP team may also be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if the member submits written input into the development of the IEP to the parent and the team, before the meeting. The parent and an authorized official of the district (the team's "District Representative") must agree to the excusal in writing using the *Agreement between Parent and District* form. In this case, the decision to excuse a team member must be made well in advance of the meeting so the team member's written input can be obtained. The parent must be notified and sign the agreement PRIOR to the meeting.

☐ The requirement to obtain a written agreement only applies to the team members that are identified in the law as required team members.

quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(d) A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(A) To advance appropriately toward attaining the annual goals;

(B) To be involved and progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and

(C) To be educated and participate with other children with disabilities and non-disabled children;

(e) The projected dates for initiation of services and modifications and the anticipated frequency, amount, location and duration of the services and modifications described in subsection (1)(d) of this rule.

(f) An explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular class and activities described in subsection (1)(d) of this rule.

(g) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments of student achievement that are needed for the child to participate in the assessment.

(A) A child may not be exempt from participation in State or district-wide assessment, including extended and juried assessments, because of a disability, unless the parent has requested an exemption under OAR 581-022-0612.

(B) If the IEP team determines that the child must take an alternate assessment in any area instead of a regular State or district-wide assessment, a statement of why the child cannot participate in the regular assessment, and why the alternate assessment selected is appropriate for the child.

(2) For the purposes of transition, the IEP must include:

(a) Beginning not later than the first IEP to be in effect when the child turns 16, or younger, if determined appropriate

What are the process and content requirements for development of an IEP?

There are specific content requirements in IDEA that must be addressed as part of IEP development. The IEP form is used to document the IEP team's decisions regarding each of these required content areas. In Oregon, all districts must use the Oregon Standard IEP, developed by the Oregon Department of Education. There are two parts to the Oregon Standard IEP; Part A: Guidelines for Use; and, Part B: the IEP form itself. The guidelines assist the case manager as he/she facilitates team discussions for each of the content areas and helps ensure the completed IEP is a comprehensive offer of FAPE to the student. Our district uses an electronic form of the Oregon Standard IEP, located in the electronic SEAS system.

A child coming to the district from Early Childhood Special Education (ECSE) has an Individualized Family Service Plan (IFSP). The IFSP is very similar to an IEP, as IDEA requires an IFSP meet the same content requirements as an IEP. The IFSP will be helpful when creating the child's first IEP for school age programs. *However, do not "use" the IFSP as an initial school age IEP.*

The process of developing an IEP begins with the case manager arranging a mutually agreed upon time and place for the IEP meeting with the parent. Once the date and time for the meeting have been arranged, a *Notice of Team Meeting* is prepared and sent to the parent, and to the required and invited team members. If the student is, or will turn 16 during the time the IEP being developed will be in effect the student must be invited and the meeting notice must indicate that transition needs and services will be addressed.

The case manager is usually the facilitator of the IEP meeting. The case manager should prepare for the meeting by providing all team members with any information expected to be reviewed prior to the meeting. The case manager is responsible for the development of an agenda which includes decision points and a timeline to accomplish the development of the IEP at the meeting. Copies of any materials needed by the team should be available for all participants at the meeting.

Prior to the IEP meeting, the case manager should summarize the current information on the student's performance in school. The summary should be written in language that is understandable to the general public. You may not use acronyms, test scores in isolation, or jargon that will be difficult for team members to understand, particularly the parent and student. This summary will be the foundation used for the development of the present level of academic and functional performance, the first content area addressed by the IEP team.

In developing the Present Levels of Academic and Functional Performance (PLAFP) the IEP team must consider any special factors that will need to be addressed as part of IEP development. The special factors that must be considered for all students include the communication needs of the child; and whether the child needs assistive technology devices

by the IEP team, and updated annually thereafter:

(A) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and

(B) The transition services (including courses of study) needed to assist the child in reaching those goals.

(b) Beginning at least one year before a student reaches age 18, or when the district obtains actual knowledge that within one year the student will marry or become emancipated before age 18, a statement that the district has informed the student that procedural rights will transfer to the student upon age 18, marriage or emancipation, whichever occurs first.

581-015-2205: IEP Team Considerations and Special Factors

(1) In developing, reviewing and revising the child's IEP, the IEP team must consider:

(a) The strengths of the child;

(b) The concerns of the parents for enhancing the education of their child;

(c) The results of the initial or most recent evaluation of the child; and

(d) The academic, developmental, and functional needs of the child.

(2) In developing, reviewing and revising the child's IEP, the IEP team must consider the following special factors:

(a) The communication needs of the child; and

(b) Whether the child needs assistive technology devices and services.

(3) In developing, reviewing and revising the IEP of children described below, the IEP team must consider the following additional special factors:

(a) For a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies to address that behavior;

(b) For a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(c) For a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP

and services. In addition and as appropriate, the team must also consider the needs of students whose behavior impedes their learning or the learning of others, students who are limited English proficient, and students who are visually impaired, or deaf and/or hard of hearing.

If it is determined, based on a Functional Behavioral Assessment (FBA) that a student requires the use of physical restraint and/or seclusion as part of their individual educational program (IEP), the team must consider the full requirements under OARs 581-0121-0550, 0556, 0559, 0563, and 0566 (included on the left hand side of this document) as well as District Board Policy (located in the resource section) in the development of the restraint and seclusion protocol. A member of the Student Services office must be involved in ALL cases of initial development of a restraint and/or seclusion protocol.

Note: Cases managers must review the guidance and required forms for this process located in the resource section of this manual.

The team will also consider the academic, functional, and developmental strengths and needs of the student based on the most recent evaluation, current performance, and additional information provided by the parent and other team members, as appropriate. The case manager must ensure that all content areas of the PLAF are addressed by the team (these are listed on the IEP form). You should not include old test information unless it is used to illustrate the progress the student has made or failed to make. Any old test information you do include must be accompanied by statement(s) of its relevance to the present levels.

This information is used by the IEP team to determine the specially designed instruction, related services, modifications, and accommodations provided to the student; and the needed support(s) to personnel provided on behalf of the student to ensure FAPE. The team determines the amount and frequency for each area of specially designed instruction, related service, modification, accommodation, or support for personnel requires to so that the student will make progress in the general curriculum and on the goals and objectives stated on the student's IEP.

ALL Case Managers must review the graduation/diploma option documents/ flowcharts located in the resource section of this manual to ensure IEP teams consider the new graduation/ diploma requirements within the requisite timelines. There are key decisions that IEP teams must make that begin in elementary school and continue annually; failure to consider these key decisions at the required time WILL affect a student's ability to graduate and the type of diploma they can obtain.

The IEP team is also responsible for considering whether the student needs extended school years services (ESY). ESY services are special education and related services provided to a student with a disability beyond the normal school year and in accordance with the student's IEP. The purpose of ESY services is to maintain the student's learning skills or behavior, not

team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and

(d) For a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

(4) If, in considering these special factors, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) for the child to receive free appropriate public education, the IEP team must include a statement to that effect in the child's IEP.

(5) Nothing in OAR 581-015-2200 or this rule may be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

Stat. Auth.: ORS 343.041, ORS 343.045; ORS 343.055, ORS 343.151

581-021-0553: Use of Physical Restraint and Seclusion in Public Education Programs

(1) The use of a chemical restraint, mechanical restraint or prone restraint on a student in a public education program in this state is prohibited.

(2) The use of physical restraint or seclusion on a student in a public education program in this state is prohibited unless used as provided in Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), which includes the following:

(a) Physical restraint or seclusion may be used on a student in a public education program only if:

(A) The student's behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and,

(B) Less restrictive interventions would not be effective.

(b) Physical restraint or seclusion may not be used for discipline, punishment or convenience of personnel of the public education

the teaching of new skills or behaviors. The IEP team must use the district's developed regression and recoupment criteria for determining the need for ESY services. ESY services must be made available if the IEP team determines services are necessary for the provision of a FAPE. The guidelines, procedures, and forms to be used for ESY determination are found in the appendix of this document. ESY services, including the amount, frequency, and location must be documented on the Service Summary of the IEP.

There are also additional content requirements that must be addressed if a student is 16, or is going to turn 16 during the period the IEP being developed will be in effect. These additional requirements assist in ensuring that transition age students' educational programs are aligned with their preferences, interests, and post-secondary goals. The IEP team reviews the students' current performance and transition assessment results to assist them in developing appropriate postsecondary goals, a course of study to be followed for the school year, and the needed transition services that will assist the student in successfully reaching their goals.

Once specially designed instruction and related and supporting services have been completed, the IEP team determines if, based on the unique needs of the student, he or she must be removed from participating in the general education environment and with nondisabled peers for any period of time to receive a FAPE. If the team determines any removal is necessary, the IEP must contain an explanation of the extent of removal and a written justification of the removal. When the IEP is completed, this decision will be used by the team to assist in determining the student's placement.

If a parent requests a private or parentally provided accommodation be included as part of a student's IEP the case manager should contact a Student Services administrators who may choose to attend the IEP meeting where the accommodation will be discussed. (Example: the parent requests the child be allowed to have an assistance dog at school; or requests to have a private speech therapist come into the school to serve the child).

All specially designed instruction, related services, modifications, accommodations, supports for personnel and ESY services (if determined necessary by the team), must be clearly documented in the Service Summary of the IEP. The parent and any service provider should be able to look at the Service Summary and clearly understand the special education and related services that must be provided to ensure FAPE.

The names of all participants in the IEP meeting must be documented on the cover page of the IEP, by role. If a team member represented more than one role at the meeting, that team member's name should appear by each role they represented on the team. This documentation is critical as it informs parents and school personnel who to contact after the meeting should they have questions.

Parents must receive a copy of the IEP as soon as possible after the meeting but in no

program.

(c) If physical restraint or seclusion is used on a student, the physical restraint or seclusion must be:

(A) Used only for as long as the student's behavior poses a reasonable threat of imminent, serious bodily injury to the student or others;

(B) Imposed by personnel of the public education program who are:

(i) Trained to use physical restraint or seclusion through programs approved by the Department of Education under OAR

581-021-0563; or

(ii) Otherwise available in the case of an emergency circumstance when trained personnel are not immediately available due to the unforeseeable nature of the emergency circumstance;

(C) Continuously monitored by personnel of the public education program for the duration of the physical restraint or seclusion.

(3) If physical restraint or seclusion continues for more than 30 minutes:

(a) The student must be provided with adequate access to the bathroom and water every 30 minutes;

(b) Personnel of the public education program must immediately attempt to verbally or electronically notify a parent or guardian of the student; and,

(c) Every 15 minutes after the first 30 minutes of the physical restraint or seclusion, an administrator for the public education program must provide written authorization for the continuation of the physical restraint or seclusion, including providing documentation for the reason the physical restraint or seclusion must be continued. Stat. Auth.: ORS. 326.051 Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939) Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0556: Program's Procedures Regarding Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must establish procedures for the public education program to follow after an incident involving the use of physical restraint or seclusion.

(2) Following an incident involving the use of physical restraint or seclusion, the following must be provided to a parent or guardian

case later than 10 calendar days after the meeting. This must be the final IEP, (it cannot be a draft). The district strongly encourages Case Managers to review and revise the draft IEP at the meeting using an InFocus and laptop to document team decisions directly into the electronic document. This process allows effective facilitation, assists with keeping the group focused on the discussion at hand, decreases the need to print draft copies, and most importantly allows the IEP to be printed immediately upon conclusion of the meeting and be disseminated to team members. This effective practice is expected to be required practice for all IEPs developed after September 2013; please contact Student Services for more information or to request assistance with implementing this practice.

All service providers, including general education teachers, must be provided a copy of those IEP sections they are responsible to implement as soon as possible. Regular classroom teachers must be informed of all relevant aspects of the student's program as indicated on the IEP such as modification(s) that must be made in instruction or evaluation. Consistent communication with regular education staff is essential for implementation of the IEP with integrity. Implementation of the IEP should begin as soon as possible after the IEP is developed, adhering to the dates of initiation stated in the service summary.

At the conclusion of the annual IEP meeting the case manager must complete a census form and send it to the Student Services office.

What if a student transfers into the district with an IEP?

☐ If a child with a disability (who had an IEP that was in effect in a previous school district **in Oregon**) transfers into the district within the same school year, the school (in consultation with the child's parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous district), until the district:

(a) Either adopts the child's IEP from the previous school district. (This determination may require involving other building personnel or service providers who will be responsible for implementing the IEP); or,
(b) Develops and implements a new IEP for the child.

☐ If a child with a disability (who had an IEP that was in effect in a previous school district **in another state**) transfers into the district within the same school year, the district (in consultation with the child's parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous district), until the school:

(a) Completes the initial evaluation *process in Oregon*, which may require additional assessment if determined necessary by the evaluation planning team;

of the student:

- (a) Verbal or electronic notification of the incident by the end of the school day when the incident occurred;
- (b) Written documentation of the incident within 24 hours of the incident that provides a description of the physical restraint or seclusion including:
 - (A) The date of the physical restraint or seclusion;
 - (B) The times when the physical restraint or seclusion began and ended;
 - (C) The location of the physical restraint or seclusion;
 - (D) A description of the student's activity that prompted the use of physical restraint or seclusion;
 - (E) The efforts used to de-escalate the situation and the alternatives to physical restraint or seclusion that were attempted;
 - (F) The names of the personnel of the public education program who administered the physical restraint or seclusion;
 - (G) A description of the training status of the personnel of the public education program who administered the physical restraint or seclusion, including any information that may need to be provided to the parent or guardian; and,
 - (H) Timely notification of a debriefing meeting to be held and of the parent's or guardian's right to attend the meeting.
- (3) If the personnel of the public education program who administered the physical restraint or seclusion had not received training from a program approved by the Department of Education, as required and in accordance with OAR 581-021-0563, the administrator of the public education program shall ensure that a parent or guardian of the student and the district superintendent receive written notification of:
 - (a) The lack of training; and
 - (b) The reason the physical restraint or seclusion was administered by a person without training.
- (4) A debriefing meeting related to the use of physical restraint or seclusion must be held within two school days of the incident and must include all personnel of the public education program who were involved in the incident and any other appropriate personnel.
 - (a) Written notes must be taken of the debriefing meeting, and a copy of the written notes must be provided to a parent or guardian of the student.
- (5) If a student is involved in five incidents in a school year involving physical restraint or seclusion, a team consisting of personnel of the public education program and a parent or

- (b) Determines the student eligible for special education services *in Oregon*; and,
- (c) Develops and implements a new IEP that meets the requirements of the Oregon Standard IEP;
- (d) Obtains signed consent from the parent for the initial provision of special education in Oregon using the *Prior Notice and Consent for Initial Provision of Special Education* form.

There are new requirements in IDEA 2004 about Accessible Materials. What does this mean?

These requirements mean that the school must provide "accessible" materials for students who are blind or print disabled. For district level personnel, it means that we must make sure that materials and curricula we adopt have available alternate forms of text such as taped text, enlarged, or brailled text that allow access to the materials by print impaired children. For the IEP team, it means that the team must consider how to provide accessible materials to students.

guardian of the student must be formed for the purposes of reviewing and revising the student's behavior plan and ensuring the provision of any necessary behavioral supports.

(6) If serious bodily injury or death of a student occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided by the public education providers within 24 hours of the incident to the Department of Human Services.

(7) If serious bodily injury or death of personnel of the public education program occurs in relation to the use of physical restraint or seclusion, written notification of the incident must be provided within 24 hours of the incident to the district superintendent and, if applicable, to the union representative for the affected party.

(8) Each public education program must maintain a record of each incident in which injuries or death occurs in relation to the use of physical restraint or seclusion.

(9) As indicated, per ORS 161.205 and 339.250, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a student when and to the extent the application of force is consistent with Section 3, chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939) and OAR 581-021-0553.

(10) The district school board shall adopt written policies to implement Physical Restraint & Seclusion procedures consistent with and as indicated in chapter 665, Oregon Laws 2011 (Enrolled House Bill 2939), ORS 339.250 and OARs 581-021-0550 to 581-021-0566, and shall inform teachers, administrators, school employees and school volunteers.

Stat. Auth.: ORS. 326.051 Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939) Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0559: Reporting Requirements for the Use of Physical Restraint & Seclusion

(1) Each entity that has jurisdiction over a public education program must prepare an annual report detailing the use of physical restraint and seclusion for the preceding school year, including, at a minimum:

- (a) The total number of incidents involving physical restraint;
- (b) The total number of incidents involving seclusion;
- (c) The total number of seclusions in a locked room;

(d) The total number of students placed in physical restraint;
(e) The total number of students placed in seclusion;
(f) The total number of incidents that resulted in injuries or death to students or personnel as a result of the use of physical restraint or seclusion;
(g) The number of students who were placed in physical restraint or seclusion more than 10 times in the course of a school year and an explanation of what steps have been taken by the public education program to decrease the use of physical restraint and seclusion for each student;
(h) The number of incidents in which the personnel of the public education program administering physical restraint or seclusion were not trained; and
(i) The demographic characteristics of all students upon whom physical restraint or seclusion was imposed, including race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, unless the demographic information would reveal personally identifiable information about an individual student.

(2) Each entity that has jurisdiction over a public education program shall make its annual report about physical restraint and seclusion available to:

(a) The public at the entity's main office and the website of the entity; and
(b) The school board or governing body overseeing the entity;
(c) If the entity is an education service district, the component school districts of the education service district;
(d) If the entity is a public charter school, the sponsor of the public charter school;
(e) Parents and guardians of students in a public education program, who shall be advised at least once each school year about how to access the report.

Stat. Auth.: ORS. 326.051 Stats. Implemented: Ch. 665, OL 2011
(Enrolled House Bill 2939) Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0563: Approval of Physical Restraint and Seclusion Training Programs for School Staff

(1) The Department of Education shall approve training programs in physical restraint and seclusion that:

(a) Teach evidence-based techniques that are shown to be

effective in the prevention and safe use of physical restraint or seclusion;

(b) Provide evidence-based skills training related to positive behavior support, conflict prevention, de-escalation and crisis response techniques; and

(c) Are consistent with the philosophies, practices and techniques for physical restraint and seclusion that are established by rule or policy of the Department of Human Services.

(2) A training program seeking approval must submit in writing to the Oregon Department of Education that meets the expectations subsection (1) of this rule.

(3) Training programs approved remain in effect unless significant changes are made to the program.

(a) If significant changes are made, the training program must be re-submitted for approval.

(4) The ODE must remove training programs from the approved list if they no longer meets the requirements specified in subsection (1) of this rule, or if they are found by the Oregon Department of Education to have violated any other laws.

Stat. Auth.: ORS. 326.051 Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939) Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-021-0566: Required Use of Approved Restraint and Seclusion Programs

On or after July 1, 2012, a Public Education Program may only use training programs on physical restraint and seclusion that are approved by the Department of Education under OAR 581-021-0563. The Department of Education shall make the approved training list available to all Public Education Programs.

Stat. Auth.: ORS. 326.051 Stats. Implemented: Ch. 665, OL 2011 (Enrolled House Bill 2939) Hist.: ODE 12-2012, f. 3-30-12, cert. ef. 5-1-12

581-015-2220: When IEPs Must Be In Effect

(1) General:

(a) At the beginning of each school year, a school district must have in effect an IEP for each child with a disability within the district's jurisdiction.

(b) School districts must provide special education and related services to a child with a disability in accordance with an IEP.

(2) Initial IEPs:

(a) A school district must conduct a meeting to develop an initial IEP within 30 calendar days of a determination that the child needs special education.

(b) As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with the child's IEP.

(3) Accessibility of IEPs. Each school district must:

(a) Ensure that the IEP is accessible to each regular education teacher, special education teacher, related service provider and other service provider who is responsible for its implementation; and

(b) Inform each teacher and provider described in (3)(a) of his or her specific responsibilities for implementing the child's IEP and the specific accommodations, modifications and supports that must be provided for or on behalf of the child in accordance with the IEP.

581-015-2225: Review and Revision of IEPs

(1) Annual review: Each school district must ensure that the IEP Team reviews the child's IEP periodically, but at least once every 365 days, to:

(a) Determine whether the annual goals for the child are being achieved; and

(b) Revise the IEP, as appropriate, to address:

(A) Any lack of expected progress toward the annual goals described in OAR 581-015-2200 and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under OAR 581-015-2105;

(C) Information about the child provided to, or by, the parents;

(D) The child's anticipated needs; or

(E) Other matters.

(2) Agreement to amend or modify IEP

(a) In making changes to a child's IEP between annual IEP Team meetings, the parent of a child with a disability and the school district may agree not to hold an IEP Team meeting to make these changes, and instead may develop

a written document to amend or modify the child's current IEP.
(b) If changes are made to the child's IEP in accordance with subsection (1), the district must ensure that the child's IEP team is informed of these changes.
(3) Amendments to IEP
(a) Changes to the IEP may be made either by the entire IEP team at an IEP team meeting, or as provided in subsection (2) by amending the IEP rather than by redrafting the entire IEP.
(b) Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated.

OAR 581-015-2230 : Transfer Students

(1) In state: If a child with a disability (who had an IEP that was in effect in a previous school district in Oregon) transfers to a new district in Oregon, and enrolls in a new school within the same school year, the new school district (in consultation with the child's parents) must provide a free appropriate public education to the child (including services comparable to those described in the child's IEP from the previous district), until the new district either:
(a) Adopts the child's IEP from the previous school district; or
(b) Develops, adopts and implements a new IEP for the child.
(2) Out of state: If a child with a disability (who had an IEP that was in effect in a previous school district in another state) transfers to a new district in Oregon, and enrolls in a new school within the same school year, the new school district (in consultation with the child's parents) must provide a free appropriate public education to the child (including services comparable to those described in the child's IEP from the previous district), until the new district:
(a) Conducts an initial evaluation (if determined necessary by the new district); and
(b) Develops, adopts and implements a new IEP, if appropriate, that meets applicable requirements.

581-015-2235: School District and Participating Agency Responsibilities for Transition Services

(1) If a participating agency, other than the school district, fails to provide agreed-upon transition services described in the IEP of a student with a disability, the school district must, as soon

as possible, initiate an IEP meeting to identify alternative strategies to meet the transition objectives for the student set out in the IEP and, if appropriate, to revise the student's IEP.

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

581-015-2055: Assistive Technology

(1) School districts must ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education, related services or supplementary aids and services.

(2) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP team determines that the child needs access to those devices to receive a free appropriate public education.

(3) School district policies govern liability, if any, for the loss or damage of assistive technology devices.

(4) School district policies govern transfer of an assistive technology device when a child with a disability using the device ceases to attend school in the district that purchased the device. "Transfer" means the process by which a school district that has purchased an assistive technology device may sell, lease or loan the device for the continuing use of a child with a disability who is ceasing to attend school in the district.

581-015-2060: Accessible Materials

(1) School districts must ensure the timely provision of print instructional materials, including textbooks that comply with the National Instructional Materials Accessibility Standards (NIMAS) for students who are blind or print disabled, in accordance with OAR 581-022-1640.

(2) School districts must ensure the timely provision of instructional materials in accessible formats to children who need instructional materials in accessible formats, including those who are not blind or print disabled.

581-015-2065: Extended School Year Services

- (1) School districts must ensure that extended school year services are available as necessary to provide a free appropriate public education to a child with a disability.
- (2) Extended school year services must be provided only if the child's IEP team determines, on an individual basis, that the services are necessary for the provision of free appropriate public education to the child.
- (3) A school district may not:
- (a) Limit extended school year services to particular categories of disability; or
 - (b) Unilaterally limit the type, amount, or duration of those services.
- (4) The purpose of extended school year services is the maintenance of the child's learning skills or behavior, not the teaching of new skills or behaviors.
- (5) School districts must develop criteria for determining the need for extended school year services. Criteria must include regression and recoupment time based on documented evidence or, if no documented evidence, on predictions according to the professional judgment of the team.
- (6) For the purposes of section (5) of this rule:
- (a) "Regression" means significant loss of skills or behaviors in any area specified on the IEP as a result of an interruption in education services;
 - (b) "Recoupment" means the recovery of skills or behaviors specified on the IEP to a level demonstrated before the interruption of education services.
- (7) For the purposes of this rule, "extended school year services" means special education and related services that:
- (a) Are provided to a child with a disability:
 - (A) Beyond the normal school year of the school district;
 - (B) In accordance with the child's IEP; and
 - (C) At no cost to the parents of the child; and
 - (b) Meet the standards of the Department.

581-015-2070: Nonacademic Services

- (1) School districts must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in a manner to afford children with disabilities an equal opportunity for participation in those services and activities.

(2) Nonacademic and extracurricular services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.

Required district forms: The forms listed below are required at certain times or for certain actions as part of IEP development. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting;
- ☐ Agreement Between Parents and District;
- ☐ *Oregon Standard IEP(SEAS);*
- ☐ Prior Notice of Special Education Action;
- ☐ *Prior Notice and Consent for Initial Provision of Special Education*

Section 9: LRE/Placement	
<p>581-015-2240: Requirement for Least Restrictive Environment School districts must ensure that:</p> <ul style="list-style-type: none"> (1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled; and (2) Special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. <p>581-015-2245 Alternative Placements and Supplementary Aids and Services School districts must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must:</p> <ul style="list-style-type: none"> (1) Include as alternative placements, instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and (2) Make provision for supplementary aids and services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement. <p>581-015-2250: Placement of the Child School districts must ensure that:</p> <ul style="list-style-type: none"> (1) The educational placement of a child with a disability: <ul style="list-style-type: none"> (a) Is determined by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; (b) Is made in conformity with the Least Restrictive Environment (LRE) provisions of OAR 581-015-2240 to 581-015-2255. (c) Is based on the child's current IEP; (d) Is determined at least once every 365 days; and (e) Is as close as possible to the child's home; (2) The alternative placements under OAR 581-015-2245 are available to the extent necessary to implement the IEP for 	<p>The district is responsible for ensuring students with disabilities are educated with children who are not disabled to the maximum extent appropriate in the least restrictive environment. This means a student with disabilities is removed from the regular educational environment only if the nature or severity of his or her disability is such that education in the regular class cannot be achieved satisfactorily with the use of supplementary aids and services. The district must ensure that the educational placement of a student is as close as possible to the student's home and that the student attends the same school he or she would attend if not disabled unless the student's disability prevents this.</p> <p>Simply stated, placement is the environment in which a student's IEP goals and objectives are carried out. The placement decision must meet the student's unique needs; not the particular disability the student has, (for example, a student cannot be put into a resource room class just because he or she is learning disabled). Placement by the district is always determined by the IEP team.</p> <p>Steps must also be taken to ensure that students with disabilities have access to all programs, both academic and nonacademic, that are available to non-disabled peers. These programs include but are not limited to art, music, industrial arts, consumer and homemaking arts,</p>

each child with a disability;

(3) Unless the child's IEP requires some other arrangement, the child is educated in the school that he or she would attend if not disabled;

(4) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs; and

(5) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

OAR 581-015-2255 : Nonacademic Settings

(1) In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities described in OAR 581-015-2070, each school district must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.

(2) School districts must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

vocational education, physical education, counseling services, athletics, transportation, health services, and special interest groups or clubs that are sponsored by the school. Equal opportunity for participation must be provided. For example, if a student with a hearing impairment has an interpreter for class activities, then an interpreter may also be needed for student government activities before school or basketball after school. This means that regular enrollment practices must allow students with disabilities to participate, and that the IEP team addresses the ability of the student to access these programs and services.

Is Placement Determination part of the IEP process?

No. Placement determination is a distinct and separate process that occurs AFTER the IEP is developed and is based on the student's most current IEP. Like the IEP, placement must be determined annually. Once the annual placement determination for a student has occurred, this placement cannot be changed without the review, and if necessary revision, of the student's IEP.

Is Prior Notice and Consent required for placement?

Yes. When a student is found eligible for special education services for the first time and an IEP is developed, the case manager must obtain written parent *consent for initial placement into special education. This is the only time that parent consent is required for placement.*

Any **change** in a student's placement, or a team's refusal to initiate a change in a student's placement, even if made during the annual placement review, requires *Prior Written Notice of Special Education Action.*

Who determines placement?

Placement must be determined by a team that includes the following members:

- ☐ An individual knowledgeable about the child;
- ☐ An individual knowledgeable about the meaning of evaluation data;
- ☐ An individual knowledgeable about the placement options; and,
- ☐ The parent

Note: These team members may also be members of the IEP team if they meet the above requirements.

Are there specific placement options that must be available?

Yes. IDEA requires a district to provide a continuum of placement options for students with disabilities. This continuum must include:

☐ Instruction in regular class: This is the least restrictive environment and the setting where most students with disabilities are placed. The assumption should be that the student "belongs" in the regular classroom and, if necessary, is pulled out for specially designed

instruction only for the shortest amount of time deemed necessary by the team. This placement option includes provision of supplementary aids and services (such as resource room, itinerant instruction, or co-taught classes) in conjunction with instruction in the regular class;

☐ Instruction in special class: This placement is a self-contained classroom within the regular school environment. The primary location for students in this placement is the special classroom, set up specifically to provide specially designed instruction for the student for most of the day, even if there is some inclusion in regular classes (e.g. a self-contained classroom within a building in which a student spends more than 60% of the school day);

☐ Instruction in special schools: This placement is in a school separate from typical public schools, charter schools, or private schools that parents choose independently;

☐ Home instruction: (does not include students whose parents choose to home-school). There are times when tutors are used as a placement option for a student, or as a short term placement while waiting for a placement decision. When tutoring is being considered as a placement, the least restrictive environment requirements must be carefully considered. Long term tutoring as a placement should only be considered when the severity of the student's disability prevents them from attending school for any length of time. Although tutoring is usually provided in the student's home, it is sometimes advisable to conduct the tutoring sessions at a public place such as the library. If the IEP team decides to place a student on home instruction, the school administrator takes responsibility for arranging the tutor and curriculum. The school administrator and tutor must follow the guidelines for logistics, curriculum, and communication, located in the district's *Tutorial Manual*.

☐ Instruction in hospitals and institutions: This placement includes residential treatment centers.

What must the team consider when determining placement?

The placement team must consider many aspects of the student's educational setting when determining placement, including how close it is to the student's home, benefits of the placement to the student, possible harmful effects of the placement on the student, and the reason for selecting or rejecting each placement option considered. All these considerations are documented on the *Placement Determination* form.

Placement determination must always begin with the least restrictive environment (e.g. instruction in regular class). If this option is not selected by the team, the team's considerations and reason for rejecting the option must be

	<p>clearly documented and the team then begins discussion of the next placement option along the continuum; moving from least restrictive to more restrictive settings. All options along the continuum need not be discussed. The team should begin with the least restrictive environment and when an option considered is deemed appropriate by the team the selection is made and placement consideration is complete, unless the parent requests an additional placement option be discussed.</p> <p>Steps must also be taken by the district to make sure access is available to non-academic programs available to nondisabled students. These programs may include, but are not limited to art, music, industrial arts, consumer and homemaking arts, vocational education, physical education, counseling services, athletics, transportation, health services and special interest groups or clubs that are sponsored by the school. The IEP team must address the ability of the student to access these programs and services and the Placement team must consider access to these programs and services when determining placement, as appropriate.</p> <p>When the IEP team suspects there is a need to consider a special school, home, hospital, or institutional placement for a student, an administrator from Student Services must be contacted. This will assist in ensuring the student's needs for services are being fully accommodated, and that someone on the team is knowledgeable about the full range of placement options. The team begins this process with review of the student's most current evaluation and eligibility.</p> <p>If a student is a resident of our district but is placed by their team in a public school in another district the attending district usually provides all of the services on a contractual basis with OSD. The ultimate responsibility, however, remains with us. Representatives from our district attend all IEP and placement meetings even when they occur in the attending district. The resident district is responsible to ensure these arrangements are specified in the contractual agreement.</p>
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Required district forms: The forms listed below are required at certain times or for certain actions as part of LRE consideration and placement determination. Not all forms will be required for every student as part of the process. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting;
- ☐ Agreement between Parents and District
- ☐ *Oregon Standard IEP (SEAS);*
- ☐ *Annual Placement Determination;*
- ☐ Prior Notice of Special Education Action;
- ☐ Prior Notice and Consent for Initial Provision of Special Education

Section 10: Free Appropriate Public Education (FAPE)

581-015-2040: Free Appropriate Public Education (FAPE) and Age Ranges

(1) School districts must provide special education and related services to all resident school-age children with disabilities, except as provided in OAR 581-015-2045. "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year.

(2) An otherwise eligible person whose 21st birthday occurs during the school year is eligible for FAPE for the remainder of the school year.

(3) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to OAR 581-015-2440.

(4) For purposes of this rule, residency is determined in accordance with ORS Chapter 339.

581-015-2045: Age Limitations and Exceptions to FAPE

(1) A district must admit an otherwise eligible student who has not yet reached 21 years of age on or before September 1 of the current school year.

(2) A student who receives a regular high school diploma is no longer entitled to FAPE. A regular education diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or general educational development credential (GED).

(3) If a school district chooses to provide special education to a student with a regular high school diploma, that student remains eligible for FAPE.

(4) The obligation to make a FAPE available to individuals with disabilities 18 through 21 years old who have been convicted as adults and are incarcerated in an adult correctional facility applies only to those individuals who, in their last educational placement before their incarceration in the adult correctional facility:

(a) Were identified as being a child with a disability as defined in OAR 581-015-2000(4); or

(b) Had an individualized education program.

(5) For purposes of subsection (4) of this rule,

Are FAPE requirements the same for students at different ages?

No. In general, the district is required to provide special education and related services to all children with disabilities enrolled in the district that have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year. If a student turns 21 during the school year, he or she continues to be eligible for FAPE for the remainder of that school year. This requirement also applies to students with disabilities who have been suspended or expelled from school.

If a student graduates with a regular high school diploma the district is no longer required to provide a FAPE. The school is not required to conduct reevaluation before terminating eligibility due to graduation with a regular high school diploma. However, graduation with a regular diploma is considered a change in placement and requires the case manager to provide *Prior Written Notice of Special Education Action*. The Case Manager must also provide the student with a *Summary of Performance*.

- (a) "Adult correctional facility" means:
- (A) A local correctional facility as defined ORS 169.005;
 - (B) A regional correctional facility as defined in ORS 169.620; or
 - (C) A Department of Corrections institution as defined in ORS 421.005;
- (b) "Identified as being a child with a disability" means has been determined eligible or was involved in the process of determining the individual's disability and eligibility for special education and related services under OAR 581-015-2130 to OAR 581-015-2180; and
- (c) "Last educational placement" includes juvenile correctional facilities.

581-015-2050: Graduation

- (1) Graduation with a regular high school diploma under OAR 581-022-1130 constitutes a change in placement, requiring written prior notice in accordance with OAR 581-015-2310.
- (2) A school district is not required to conduct a reevaluation before terminating eligibility due to graduation with a regular high school diploma.
- (3) In accordance with OAR 581-022-1130, a school district may award an alternative document as described in local school board policies to a student with a disability. Graduation with an alternative document does not terminate eligibility under OAR 581-015-2045(2), require an evaluation. or require written prior notice.

581-022-1130: Diploma Requirements

- (1) Each district school board and public charter school with jurisdiction over high school programs shall award diplomas to all students who fulfill all state requirements as described in sections (2) to (11) of this rule and all local school district requirements as described in district school board policies or all public charter school requirements as described in the policies or charter of the public charter school.
- (2) Unit of Credit Requirements for students graduating before July 1, 2009:
- (a) Each student shall earn a minimum of 22 units of credit to include at least:
- (A) English Language Arts -- 3 (shall include the equivalent of one

The ODE has significantly revised the graduation requirements and options for all students.

Parents need to be notified of diploma options while a student is in their 5th grade year.

These revisions:

- ☐ offer more diploma options to students with disabilities;
- ☐ have specific requirements that must be met for each option considered; and,
- ☐ have strict timelines for notice(s) to parents that extend below the secondary level.

It is therefore critically important for **ALL staff** to carefully review the updated Graduation requirements listed in OARs (to the left) and the expanded guidelines located in the resource section of the manual.

unit in Written Composition);
(B) Mathematics -- 2;
(C) Science -- 2;
(D) Social Sciences 3 -- (including history, civics, geography and economics (including personal finance);
(E) Health Education -- 1;
(F) Physical Education -- 1;
(G) Career and Technical Education, The Arts or Second Language -- 1 (one unit shall be earned in any one or a combination).
(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;
(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 22;
(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;
(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.
(3) Except as provided in section (4) of this rule, Unit of Credit Requirements for students graduating on or after July 1, 2009 and who were first enrolled in grade 9 prior to the 2008-2009 school year:
(a) Each student shall earn a minimum of 24 units of credit to include at least:
(A) English Language Arts -- 4 (shall include the equivalent of one unit in Written Composition);
(B) Mathematics -- 3;
(C) Science -- 2;
(D) Social Sciences 3 -- (including history, civics, geography and economics (including personal finance);
(E) Health Education -- 1;
(F) Physical Education -- 1;
(G) Career and Technical Education, The Arts or Second Language -- 1 (one unit shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(4) Notwithstanding sections (2) and (3) of this rule, for students who began grade 9 during the 2005-2006 school year and who attended school during the 2006-2007, 2007-2008 and 2008-2009 school years, the unit of credits required for graduating is as described in section (2) of this rule if the student graduates prior to July 1, 2010.

(5) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2008-2009 or 2009-2010 school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts -- 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics -- 3;

(C) Science -- 3;

(D) Social Sciences 3 -- (including history, civics, geography and economics (including personal finance));

(E) Health Education -- 1;

(F) Physical Education -- 1;

(G) Career and Technical Education, The Arts or Second Language -- 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units

of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(6) Unit of Credit Requirements for students who were first enrolled in grade 9 during the 2010-2011 school year or first enrolled in grade 9 in any subsequent school year:

(a) Each student shall earn a minimum of 24 units of credit to include at least:

(A) English Language Arts -- 4 (shall include the equivalent of one unit in Written Composition);

(B) Mathematics -- 3 (shall include one unit at the Algebra I level and two units that are at a level higher than Algebra I);

(C) Science -- 3;

(D) Social Sciences 3 -- (including history, civics, geography and economics (including personal finance));

(E) Health Education -- 1;

(F) Physical Education -- 1;

(G) Career and Technical Education, The Arts or Second Language -- 3 (units shall be earned in any one or a combination).

(b) A district school board or public charter school with a three-year high school may submit through the waiver process alternative plans to meet unit requirements;

(c) A district school board or public charter school may increase the number of units required in specific areas, and may increase or decrease the number of elective units; however, the total units of credit required for graduation shall not be less than 24;

(d) A school district or public charter school may grant high school credit for courses taken prior to grade 9 if students taking pre-grade 9 courses are required to meet performance criteria that are equivalent to the performance criteria for students taking the same high school courses;

(e) Course syllabi shall be written for courses in grades 9 through 12 and shall be available to students, staff, parents, the district school board and other interested individuals.

(7) Each student shall demonstrate proficiency in essential skills adopted by the State Board of Education as provided in OAR 581-

022-0615;

(8) School districts shall develop a process that provides each student the opportunity to develop an education plan and build an education profile in grades 7 through 12 with adult guidance. The plan and profile shall be reviewed and updated periodically (at least annually) and be supported by a Comprehensive Guidance Program as defined in OAR 581-022-1510.

(9) Each student shall develop an education plan and build an education profile.

(a) Each student shall develop an education plan that:

(A) Identifies personal and career interests;

(B) Identifies tentative educational and career goals and post high school next steps (i.e. college, workforce, military, apprenticeship, other);

(C) Sets goals to prepare for transitions to next steps identified in section (7)(b);

(D) Designs, monitors and adjusts a course of study that meets the interest and goals of the student as described in subsection (a) (A), (B) and (C) of this rule that includes but is not limited to:

(i) Appropriate coursework and learning experiences;

(ii) Identified career-related learning experiences; and

(iii) Identified extended application opportunities.

(b) Through the education profile each student shall:

(A) Monitor progress and achievement toward standards including:

(i) Content standards;

(ii) Essential skills;

(iii) Extended application standard; and

(iv) Other standards where appropriate (e.g. industry standards).

(B) Document other personal accomplishments determined by the student or school district.

(C) Review progress and achievement in subsection (b)(A) and (B) of this subsection at least annually.

(10) Each student shall build a collection of evidence, or include evidence in existing collections(s), to demonstrate extended application (as defined in OAR 581-022-0102);

(11) Each student shall participate in career-related learning experiences outlined in the education plan (as defined in OAR 581-022-0102);

(12) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma to those students who have demonstrated the inability to

meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-1134.

(13) Notwithstanding sections (1) to (11) of this rule, each district school board or public charter school governing board with jurisdiction over high school programs shall award an extended diploma to those students who have demonstrated the inability to meet the full set of academic content standards even with reasonable modifications and accommodations and who fulfill all requirements as described in OAR 581-022-1133.

(14) Notwithstanding sections (1) to (11) of this rule and as provided in OAR 581-022-1135, schools districts and public charter schools shall make an alternative certificate available to students as an alternative for students who do not obtain the regular diploma, modified diploma or extended diploma.

(15) Attendance Requirements:

(a) Twelve school years shall be required beginning with grade 1, except when the school district adopts policies providing for early or delayed completion of all state and school district credit and performance requirements;

(b) Notwithstanding subsection (a) of this section, a student may satisfy the requirements of sections (2)(6) of this rule in less than four years. If the school district or public charter school has the consent of the student's parent or guardian, a school district or public charter school shall award a diploma to a student upon request from the student, if the student satisfies the requirements for the diploma that apply to the student based on the date of graduation of the student or the school year when the student first enrolled in grade 9, as applicable.

(c) If a school district or public charter school has the consent of a student's parent or guardian, the school district or public charter school may advance the student to the next grade level if the student has satisfied the requirements for the student's current grade level.

(d) The requirement for obtaining the consent of a student's parent or guardian under subsections (b) and (c) of this section does not apply to a student who is:

(A) Emancipated pursuant to ORS 419B.550 to 419B.558; or

(B) 18 years of age or older.

(e) The district school board may adopt policies for alternative learning experiences, such as credit by examination and credit for off-campus experiences;

(f) With any modification of the attendance requirements for graduation, school district and public charter school staff shall consider age and maturity of students, access to alternative learning experiences, performance levels, school district or public charter school guidelines and the wishes of parents and guardians.

(16) A school district or public charter school shall ensure that students have access to the appropriate resources to achieve a diploma at each high school in the school district or at the public charter school.

Stat. Auth.: ORS 326.051 & 329.451

581-022-1131: Credit Options

(1) A school district or public charter school shall grant required and elective credit towards the diploma or a modified diploma, provided the method for accruing such credit is described in the student's personal education plan and the student earns the credit by meeting the requirements of one or more of the options described in this rule.

(2) Each school district or public charter school shall offer students the option for earning each credit required for the diploma or a modified diploma by successfully completing classroom or equivalent work (e.g., supervised independent study, career-related learning experiences, project based learning) in a course of at least 130 clock hours in accordance with OAR 581-022-0102. The classroom or equivalent work must meet Common Curriculum Goals and academic content standards required by OAR 581-022-1210.

(3) In addition to the option of earning credit required by section (2) of this rule, a school district or charter school may offer one or more of the options described in section (4) of this rule for earning credits. The school district or charter school must identify by district or school policy which options are available to students for earning credits.

(4) A school district or charter school may grant credit to a student if the student demonstrates defined levels of proficiency or mastery of recognized standards (e.g., state academic content standards and essential skills, industry-based or other national or international standards) by any one or more of the following options:

(a) Successfully completes classroom or equivalent work designed

to measure proficiency or mastery of identified standards (knowledge and skills) in class or out of class, where hours of instruction may vary;
(b) Successfully passes an appropriate exam designed to measure proficiency or mastery of identified standards (knowledge and skills);
(c) Provides a collection of work or other assessment evidence which demonstrates proficiency or mastery of identified standards (knowledge and skills); and
(d) Provides documentation of prior learning activities or experiences which demonstrates proficiency or mastery of identified standards (knowledge and skills) (e.g., certification of training, letters, diplomas, awards, etc.); or
(e) Successfully completes a combination of the options set out in section (2) and this section of this rule.
Stat. Auth.: ORS 326.051

581-022-1133

Extended Diploma

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A school district or public charter school shall award an extended diploma to a student who satisfies the requirements of this rule.

(3) A school district or public charter school shall award an extended diploma only to students who have demonstrated the

If an IEP team determines that a student graduating with a regular diploma continues to require special education services after graduation [581-015-2045 (3)], a Student Services representative MUST be invited to the team meeting.

Note: Graduation with an alternative document, (which now includes a modified diploma, extended diploma, alternate certificate, or GED) does not require an evaluation, terminate eligibility, or require **Written Prior Notice**. However, the district may award a modified diploma to a student only upon the consent of the parent or guardian of the student. The district must receive the consent in writing and during the school year in which the modified diploma is awarded. If a student who receives a modified or extended diploma or certificate elects to not continue in school, or if the team believes such a student no longer requires special education (including transition services), all special education procedures must be followed to terminate the student's eligibility. See resource section of this manual for additional guidance for new graduation requirements.

inability to meet the full set of academic content standards for a high school diploma with reasonable modifications and accommodations.

(4) A school district or public charter school may award an extended diploma to a student only upon the consent of the parent or guardian of the student, or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the extended diploma is awarded. (A) If student is under 18, consent must be received from the parent or guardian.

(B) If the student is under age 18 and emancipated, consent must be received from the student.

(C) If the adult student is 18 or older, consent must be received from the student.

(D) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(5) To be eligible for an extended diploma, a student must:

(a) Have a documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers or have a documented history of a medical condition that creates a barrier to achievement; and

(b)(A) Participate in an alternate assessment beginning no later than grade six and lasting for two or more assessment cycles; or

(B) Have a serious illness or injury that occurs after grade eight, that changes the student's ability to participate in grade level activities and that results in the student participating in alternate assessments.

(c) While in grade nine through completion of high school, complete 12 credits, which may not include more than six credits earned in a self-contained special education classroom and shall include:

(A) Two credits of mathematics;

(B) Two credits of English;

(C) Two credits of science;

(D) Three credits of history, geography, economics or civics;

(E) One credit of health;

(F) One credit of physical education; and

(G) One credit of the arts or a second language;

(6)(a) A student shall have the opportunity to meet the requirements of an extended diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is

entitled to a public education until the age of 21 years under state or federal law.

(b) A student may complete the requirements for an extended diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an extended diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an extended diploma in less than three years.

(7) A school district or public charter school shall:

(a) Ensure that students have on-site access to the appropriate resources to achieve an extended diploma at each high school in the school district or at the public charter school.

(b) Beginning in grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of an extended diploma and the requirements for the extended diploma.

(c) A school district or public charter school may not deny a student who has the documented history described in subsection (1)(a) of this section the opportunity to pursue a diploma with more stringent requirements than a modified diploma or an extended diploma for the sole reason that the student has the documented history.

(8)(a) A student who receives an extended diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the

student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

(9) School districts and public charter schools shall make extended diplomas as required by ORS 329.451 and this rule first available to students during the 2009-2010 school year.

Stat. Auth.: ORS 326.051

581-022-1134: Modified Diploma

(1) Definitions. As used in this rule:

(a) "Documented history" means evidence in the cumulative record and education plans of a student that demonstrates the inability over time to maintain grade level achievement even with appropriate modifications and accommodations.

(b) "Instructional barrier" means a significant physical, cognitive or emotional barrier that impairs a student's ability to maintain grade level achievement.

(c) "Modified course" means a course that has been systematically changed or altered for a student only after reasonable alternative instructional strategies (e.g. accommodations, remediation) are exhausted.

(d) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) On or after July 1, 2009, each district school board or public charter school governing board with jurisdiction over high school programs shall award a modified diploma only to students who have demonstrated the inability to meet the full set of academic content standards for a high school diploma even with reasonable modifications and accommodations but who fulfill all state requirements as described in this rule and all applicable local school district requirements as described in district school board policies or public charter school requirements as described in school policies. In addition, on or after July 1, 2009, a district school board or public charter school governing board may only

award a modified diploma to a student who meets the eligibility criteria specified in section 3 of this rule.

(3)(a) Except as provided in paragraph (c) or (d) of this section, a school district or public charter school shall grant eligibility for a modified diploma to a student who has:

(A) A documented history of an inability to maintain grade level achievement due to significant learning and instructional barriers; or

(B) A documented history of a medical condition that creates a barrier to achievement.

(b) A student shall have the opportunity to meet the requirements of a modified diploma by the later of:

(A) Four years after starting grade nine; or

(B) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.

(c) A student may complete the requirements for a modified diploma in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for a modified diploma.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction.

(D) The consent may not be used to allow a student to satisfy the requirements for a modified diploma in less than three years.

(d) A school district or public charter school may not deny a student who has the documented history described in paragraph (a) of this subsection the opportunity to pursue a diploma with more stringent requirements than a modified diploma for the sole reason that the student has the documented history.

(e) Students currently engaged in the use of illegal drugs are not eligible for a modified diploma if the significant learning and instructional barriers are due to the use of illegal drugs.

(f) Students currently engaged in the illegal use of alcohol are not eligible for a modified diploma if the significant learning and instructional barriers are due to the alcohol abuse, regardless of whether that student is disabled under Section 504 on the basis of alcoholism.

(g) Notwithstanding paragraph (c) and (d) of this section, a school district or public charter school may grant eligibility for a modified diploma to a student who is no longer engaging in illegal use of drugs or alcohol if the student:

- (A) Has successfully completed a supervised drug or alcohol rehabilitation program and are no longer engaged in the illegal use of drugs or alcohol; or
- (B) Has been rehabilitated successfully and is no longer engaged in the illegal use of drugs or alcohol; or
- (C) Is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs or alcohol.

(4)(a) A school district or public charter school shall determine which school teams shall decide if a student will work toward obtaining a modified diploma. A student's school team must include an adult student, parent/ guardian of the student.

(b) A school district or public charter school may award a modified diploma to a student only upon the consent of the parent or guardian of the student or upon the consent of the adult student or emancipated minor student. A district or school must receive the consent in writing and during the school year in which the modified diploma is awarded.

- (A) If student is under 18, consent must be received from the parent or guardian.
- (B) If the student is under age 18 and emancipated, consent must be received from the student.
- (C) If the adult student is 18 or older, consent must be received from the student or guardian.
- (D) If the student is under guardianship from the courts, consent must come from the court-appointed authority.

(c) Except as provided in subsection (e) of this section, a student's school team shall decide that a student should work toward a modified diploma no earlier than the end of the 6th grade and no later than 2 years before the student's anticipated exit from high school.

(d) Beginning in grade five, school district and public charter schools shall annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of a modified diploma and the requirements for the modified diploma.

(e) A student's school team may formally decide to revise a modified diploma decision.

(f) A student's school team may decide that a student who was not

previously working towards a modified diploma should work toward a modified diploma when a student is less than 2 years from anticipated exit from high school if the documented history of the student described in section (3) of this rule has changed.

(5) Unit of credit requirements for students graduating with a modified diploma:

(a) To receive a modified diploma a student must earn 24 units of credit, between grade 9 and the end of their high school career with at least 12 of those credits to include:

(A) English Language Arts — 3;
(B) Mathematics — 2;
(C) Science — 2;
(D) Social Sciences (which may include history, civics, geography and economics (including personal finance)) — 2;
(E) Health Education — 1;
(F) Physical Education — 1; and
(G) Career Technical Education, The Arts or Second Languages (units may be earned in any one or a combination) — 1.

(b) School districts and public charter schools shall be flexible in awarding the remaining 12 units of credit. These credits must be awarded to meet the needs of the individual student as specified in the education plan of the student with the expectations and standards aligned to the appropriate grade level academic content standards. These credits may include:

(A) Additional core credits described in paragraph (a) of this section;
(B) Professional technical education;
(C) Electives; and
(D) Career development.

(c) Students may earn units of credit through regular education with or without accommodations or modifications and through modified courses.

(d) Students shall have the option to earn credit for demonstrating proficiency. A student may be given credit for successful demonstration of knowledge and skills that meets or exceeds defined levels of performance. Students may demonstrate proficiency through classroom work or documentation of learning experiences outside of school, or through a combination of these means.

(e) School districts and public charter schools shall ensure that students have access to needed courses, modifications and supports to pursue a modified diploma and to progress in the

general education curriculum.

(f) A school district or public charter school may not require a student to earn more than 24 units of credit to receive a modified diploma.

(6) A school district or public charter school shall grant credit toward a modified diploma only for courses that contain substantial academic content. A school district or public charter school shall grant credit for a modified diploma through a continuum of instruction beginning at basic skills and progressing through high level skills.

(7) A school district or public charter school shall award a regular diploma under OAR 581-022-1130 if all requirements for a regular diploma are met. Completion of one or more modified courses shall not prohibit a student from earning a regular diploma; however, required core courses taken under modified conditions must be retaken under standard conditions to be counted toward a regular diploma.

(8) A school district or public charter school shall grant credit toward a modified diploma according to individual student needs across academic content areas including applied, consumer, academic, or knowledge and skill development.

(9) Each student shall develop an education plan and build an education profile as provided under OAR 581-022-1130.

(10) A school district or public charter school shall inform the student and parent or guardian of the student if the courses in grades 9-12 have been modified for an individual student.

(11) A school district or public charter school shall provide transcripts which clearly identify modified courses that do not count toward the regular diploma but that do count toward a modified diploma.

(12) Each student shall build a collection of evidence, or include evidence in existing collections, to demonstrate extended application of the standards as defined in OAR 581-022-0102;

(13) Each student receiving a modified diploma shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(14)(a) A student who receives a modified diploma shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and

services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team or school team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student, parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services and other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency

agreement with the school district.

(i) School districts and public charter schools shall ensure that students have on-site access to the appropriate resources to achieve a modified diploma at each high school in the school district or at the public charter school.

(15)(a) The unit of credit requirements in section (5) of this rule for a modified diploma apply to all students who enter 9th grade on or after July 1, 2007.

(b) If a student entered 9th grade prior to July 1, 2007, the student's team shall decide whether the student must meet the unit of credit requirements in section (5) of this rule to receive a modified diploma or the unit of credit requirements specified by the school district or public charter school for a modified diploma when the student entered 9th grade. If a student's team decides that a student may receive a modified diploma by meeting the unit of credit requirements required by the district or school when the student entered 9th grade, a school district or public charter school may award a student who entered 9th grade prior to July 1, 2007 a modified diploma if the student meets the unit of credit requirements for a modified diploma specified by the district or school when the student entered 9th grade.

Stat. Auth.: ORS 329.451

581-022-1135: Alternative Certificate

(1) Definitions.

(a) "Other services" for the purposes of this rule means:

(A) Those services paid for or provided by another agency, such as Vocational Rehabilitation or Brokerages, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These "other services" are not to be considered educational services and are not provided by or through the school district or public charter school.

(B) Those services identified in OAR 581-022-1620(4), such as school assemblies, student orientations, testing, etc, which may be considered in the calculation of the total number of hours that equals at least the total number of instructional hours that is required to be provided to students who are attending public high school. These services are provided by the school district or public charter school.

(2) A School district or public charter school shall award an alternative certificate to a student who does not satisfy the requirements for a high school diploma, a modified diploma or an extended diploma.

(3)(a) Each district school board or public charter school governing board with jurisdiction over high school programs shall define criteria for an alternative certificate and shall award an alternative certificate to those students who have met the criteria requirements as described in district school board policies.

(4) A student shall have the opportunity to meet the requirements of an alternative certificate by the later of:

- (a) Four years after starting grade nine; or
- (b) The student reaching the age of 21 years, if the student is entitled to a public education until the age of 21 years under state or federal law.
- (c) A student may complete the requirements for an alternative certificate in less than four years if the parent/guardian or adult student gives consent.

(A) The consent must be written and must clearly state that the parent/guardian or adult student is waiving the 4 years to complete the requirements for an alternative certificate.

(B) A copy of all consents must be sent to the district superintendent.

(C) Each school district must annually provide the number of consents obtained to the State Superintendent of Public Instruction

(D) The consent may not be used to allow a student to satisfy the requirements for an alternative certificate in less than three years.

(5) A school district or public charter school shall:

- (a) Ensure that students have on-site access to the appropriate resources to achieve an alternative certificate at each high school in the school district or at the public charter school.
- (b) Beginning grade five, annually provide information to the parents or guardians of a student taking an alternate assessment of the availability of an alternative certificate and the requirements for the certificate.

(6) Each student receiving an alternative certificate shall have the option of participating in the high school graduation ceremony with the members of their class receiving a high school diploma.

(7)(a) A student who receives an alternative certificate shall have access to instructional hours, hours of transition services and hours of other services that are designed to meet the unique

needs of the student.

(b) When added together, the school district or public charter school will provide a total number of hours of instruction and services to the student that equals at least the total number of instructional hours that is required to be provided to students who are attending a public high school.

(c) The total number of hours that are appropriate for a student shall be determined by the individualized education program (IEP) team if the student is eligible for special education.

(d) Based on the student's needs and performance level, the student's IEP team may decide that the student will not access the total number of hours of instruction and services required to be provided to students who are attending a public high school.

(e) The school district or public charter school may not unilaterally decrease the total number of hours of instruction and services to which the student has access regardless of the age of the student.

(f) If a student's IEP team, decides that the student will not access the total number of hours of instruction and services to which the student has access the school district or public charter school shall annually:

(A) Provide the following information in writing to the adult student parent or guardian of the student:

(i) The school district's or public charter school's duty to comply with the requirements to provide the total number of hours of instruction and services to the student; and

(ii) The prohibition against a school district's or public charter school's unilaterally decreasing the total number of hours of instruction and services to which the student has access.

(B) Obtain a signed acknowledgment from the adult student, parent or guardian of the student that the adult student, parent or guardian received the information.

(C) Include in the IEP for the student a written statement that explains the reasons the student is not accessing the total number of hours of instruction and services to which the student has access.

(g) Transition services or other services designed to meet the unique needs of the student may be provided to the student through an interagency agreement entered into by the school district if the individualized education program developed for the student indicates that the services may be provided by another agency. The school district or public charter school retains the responsibility for ensuring that the student has access to the

number of service hours required to be provided to the student.

(h) An agency is not required to change any eligibility criteria or enrollment standards prior to entering into an interagency agreement with the school district.

Stat. Auth.: ORS 329.451

581-015-2260: Rights of Children with Disabilities in Private Schools Placed or Referred by Public Agencies

Each public agency must ensure that a child with a disability who is placed in or referred to a private preschool, school or facility by the public agency as a means of providing early intervention/early childhood special education (EI/ECSE) or special education and related services:

- (1) Is provided EI/ECSE or special education and related services in conformance with an IEP or IFSP, and at no cost to the parents;
- (2) Is provided an education that meets the standards that apply to education provided by the public agency (except that private school teachers do not need to be highly qualified special education teachers); and
- (3) Has all of the rights of a child with a disability who is served by the public agency.

Who is responsible for the provision of FAPE if the district places a student in a private school?

When the district places a student in a private school, the district remains responsible for ensuring FAPE to the student. Prior to district placement in a private school, the district must develop an IEP for the student. The private school may facilitate subsequent IEP meetings for the student if the district agrees to this in writing. In this case the district is still responsible to ensure that the parents and a district representative are in attendance at the meeting, as well as all other required IEP team members. In this situation, the private school is acting as an agent of the district and cannot make program changes without district agreement. The district is responsible for providing the student transportation to the private school, unless other arrangements are made between the district and parent. If the district is providing transportation it must be documented in the service summary of the student's IEP as a related service.

Is the district required to provide FAPE if the parent places their child in a private school?

No, the district **is not** required to provide FAPE if the student is parentally placed in a private school. Please see Section 11 of this manual for further guidance if a student on your caseload is being placed by their parent in a private school.

Required district forms: The forms listed below are required at certain times or for certain actions as part of FAPE. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Oregon Standard IEP (SEAS);
- ☐ Summary of Academic Achievement and Functional Performance;
- ☐ Prior Notice of Special Education Action

Section 11: Parentally Placed Private School Children

581-015-2450: Definitions

For the purposes of OAR 581-015-2450 through 581-015-2515, the following definitions apply:

- (1) **"Enrolled in a public school or ECSE program"** means enrolled in, attending, and, for children ages 7 to 18, not exempt from compulsory school attendance as a private school student.
- (2) **"IDEA funds"** means federal funds allocated to the public agency under the Individuals with Disabilities Education Act.
- (3) **"Private school child with a disability"** means a child with a disability or preschool child with a disability aged 3 to school-age who has been enrolled by a parent in a private school or facility, and who, if aged 7 to 18, is exempt from compulsory school attendance under ORS 339.115.
- (a) This term includes school-age children who are exempt from compulsory school attendance under ORS 339.115, even if a school district permits the student to attend one or more classes pursuant to a district policy permitting partial enrollment.
- (b) This term does not include:
- (A) Children three years of age until the age of eligibility for public school who can be provided a free appropriate public education in a private preschool or child care setting selected and paid for by their parents; or
- (B) Children who are exempt from compulsory school attendance under ORS 339.115 as a home schooled student; or
- (C) Children who are not of compulsory school attendance age who have rejected public agency services but who are not attending a private school; or
- (D) Children who are placed in a private school by the public agency.
- (4) **"Private school"** means a private elementary or secondary school or facility, including a private religious school. A preschool is considered a private school under this provision only if it is part of a private elementary or secondary school.
- (4) **"Public agency"** means:
- (a) For school-aged children, the school district where the

Under the IDEA, parentally-placed private school students, (PPPS) are the *responsibility of the district where the private school is located.*

What requirements must the district where the private school is located ensure?

The district where the private school is located is responsible for:

- ☐ the initial referral and evaluation planning;
- ☐ conducting the evaluation and determining eligibility;
- ☐ developing a *Service Plan* with a team, including the parent;
- ☐ determining where services are to be provided;
- ☐ conducting the annual *Service Plan* review;
- ☐ conducting reevaluations and determining continuing eligibility; and,
- ☐ conducting timely and meaningful consultation with representatives

from the private school.

If, through the evaluation and eligibility process, a determination is made that a child is a child with a disability and needs special education and related services, the district where the private school is located is responsible for development and implementation of a Service Plan. An IEP is not offered by the district where the private school is located, as FAPE is not afforded to a child who is parentally placed in a private school.

What is a Services Plan?

A *Services Plan* describes the specific special education services the district will provide to a parentally placed private school student. It is different than an IEP in that it is not an offer of FAPE. Special education services that can be considered as part of Service Plan development are limited to those services the district has determined it will make available to private school students with disabilities, in consultation with their private school partners. As the services the district will offer parentally placed private school children may change annually it is important to use the most current OSD Private School Plan when developing a Services Plan for a child.

Meetings to develop, review and revise the *Service Plan* for the student are planned and held in the same way as IEP meetings. A representative of the private school attends each meeting. If the representative cannot attend, other methods must be used to ensure participation by the private school, including individual or conference telephone calls.

private elementary or secondary school is located; and
(b) For children aged 3 up to school-age, the EI/ECSE contractor where the private elementary school or secondary school is located.

(5) "**Services plan**" means a written statement that describes the special education and related services the school district will provide to a parentally-placed private school child with a disability who has been designated to receive services, including the location of services and any transportation necessary, consistent with OAR 581-015-2460. Unlike an IEP or IFSP, a service plan does not need to provide a free appropriate public education.

581-015-2455: Provision of services for Private School Children with Disabilities

(1) Each public agency must provide for participation in special education and related services to private school children with disabilities who are enrolled in private schools located within the school district boundaries, to the extent consistent with the number and location of these children.

(2) No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school

(3) Decisions about the services that will be provided to private school children with disabilities must be made in accordance with OAR 581-015-2460 and OAR 581-015-2480.

(4) Special education and related services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public agency, except that private school teachers providing equitable services to private school children with disabilities do not have to meet the highly qualified special education teacher requirements.

(5) Special education and related services must be provided to private school children with disabilities by employees of the public agency or through contract by the public agency with an individual, association, agency, organization, or other entity.

(6) Private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

(7) Special education and related services may be provided to

What if the parentally placed private school student is found not eligible for special education services?

If the student is found not eligible for special education services the Case manager must provide the parent a copy of the *Eligibility Determination*, *Prior Notice of Special Education Action*, and any other documents related to the evaluation.

Must the district provide transportation to parentally placed private school students with disabilities?

The district must provide transportation to parentally placed private school students with disabilities *only if* it is determined necessary for the child to benefit from or participate in the services provided by the district. If determined necessary, the district must provide transportation from the child's school or the child's home to a site other than the private school; and from the service site to the private school, or to the child's home, depending on the timing of the service. However, if transportation is provided, it constitutes part of the services provided to the student. Since these services are limited by the amount of federal funds these students would generate, transportation could dramatically decrease the amount of instructional services and supports may be available to the student.

How does the district begin the process of determining what services to provide to private schools?

The Student Services Office begins by locating the private schools within OSD attendance boundaries. Once the private schools are identified, a Student Services administrator contacts representatives of the private school and parents of parentally placed private school children in these private schools to begin the consultation process.

What is the consultation process?

The consultation process is accomplished through individual or group meetings, and includes discussion and decisions on the following:

- ☐ How Child Find will be conducted, including how resident and non-resident parentally placed private school children suspected of having a disability can participate equitably;

parentally-placed private school children on the premises of private, including religious, schools, to the extent consistent with law.

(8) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral and nonideological.

581-015-2460: Services Plan

(1) If a child with a disability is enrolled by a parent in private school and will receive special education or related services from a public agency, the public agency must:

(a) Initiate and conduct meetings to develop, review and revise a services plan for the child in accordance with subsection (3); and

(b) Ensure that a representative of the child's private school attends each meeting. If the representative cannot attend, the public agency must use other methods to ensure participation by the private school, including individual or conference telephone calls.

(2) The services plan must describe the specific special education and related services that the public agency will provide to the child in light of the services that the public agency has determined, through the consultation process described in OAR 581-015-2480, it will make available to private school children with disabilities.

(3) The services plan must, to the extent appropriate:

(a) Meet the requirements of OAR 581-015-2200 with respect to the services provided; and

(b) Be developed reviewed and revised consistent with OARs 581-015-2190 through 581-015-2210 and 581-015-2220(2) and (3).

(4) Transportation:

(a) Public agencies are not required to provide transportation from the child's home to the private school.

(b) If necessary for the child to benefit from or participate in the services provided by the public agency, the public agency must provide transportation to the child:

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

☐ How evaluations, eligibility determinations, and reevaluations will be conducted;

☐ How parents, teachers, and private school officials will be informed of the Child Find process;

☐ The determination of the proportionate amount of federal funds to be expended and how the proportionate share will be calculated;

☐ How the consultation process will operate through the school year to ensure that students identified through Child Find can participate in special education and related services;

☐ How, where, and who will provide special education and related services from the district, including discussion of types of services and service delivery;

☐ How services will be apportioned if funds are insufficient to serve all identified students, and how and when these decisions will be made; and,

☐ How the district will provide written explanation if it chooses to refuse to provide services due to district and private school official's disagreement about the provision of services or the types of services.

Once the consultation process has been completed, the district obtains an attestation, signed by the representatives of each private school involved in the process that documents their participation in the process.

What is the next step after consultation?

After consultation, the district conducts Child Find to determine the number of students with disabilities, including non-resident students with disabilities, placed by their parents in these private schools. The district accomplishes this through written and personal surveying conducted by the ESD, and through direct contact with the private school. Private schools are given directions on proper referral procedures, including copies of the district Referral Form. The timeline for completing Child Find activities for parentally placed private school students is similar to the timeline for completing these activities for students attending district public schools.

581-015-2480: Consultation with Representatives of Private School Children with Disabilities

(1) To ensure timely and meaningful consultation, public agencies must consult with representatives of private school children with disabilities during the design and development of special education and related services for the children, including regarding:

(a) The child find process, including how private school children suspected of having a disability can participate equitably, and how parents, teachers, and private school officials will be informed of the process;

(b) The determination of the proportionate share of IDEA funds available to serve private school children with disabilities, including the determination of how the proportionate share of funds was calculated;

(c) The consultation process among the public agency and representatives of private school children with disabilities, including how such process will operate throughout the school year to ensure that private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(d) How, where and by whom special education and related services will be provided for private school children with disabilities, including a discussion of the types of services (including direct services and alternate service delivery mechanisms), how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

(e) How, if the public agency disagrees with the views of private school officials on the provision of services or the types of services (whether provided directly or through a contract), the public agency will provide to the private school officials a written explanation of the reasons why the public agency chose not to provide services directly or through a contract.

(2) For the purposes of this rule, "representatives of private school children with disabilities" means representatives of parents of private school children with disabilities and private school officials or other private school representatives.

(3) The public agency makes the final decisions with respect to the services to be provided to eligible private school children.

Required district forms: The forms listed below are required at certain times or for certain actions when a student who is, or may be a student with disabilities is parentally placed in a private school. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ *Referral for Special Education;*
- ☐ OT/PT referral form;
- ☐ Parents Rights for Special Education Handbook;
- ☐ Authorized for Release of Information form
- ☐ Prior Notice about Evaluation/ Consent for Evaluation;
- ☐ Notice of Team Meeting
- ☐ Eligibility Determination(by disability);
- ☐ *Summary of Evaluation Report;*
- ☐ Notice of Special Education Action;
- ☐ *Oregon Standard IEP (SEAS);or,*
- ☐ Service Plan;
- ☐ Prior Notice of Special Education Action; or,
- ☐ Prior Notice and Consent for Initial Provision of Special Education

Section 12: Transfer of Rights at the age of majority

581-015-2325: Transfer of Procedural Rights at Age of Majority

- (1) When a child with a disability reaches the age of majority under ORS 109.510 or 109.520, or is emancipated pursuant to ORS 419B.550 to 419B.558, the rights accorded to the child's parents under the special education laws transfer to the child. A student for whom rights have transferred is considered an "adult student" under OAR 581-015-2000.
- (2) Notwithstanding section (1) of this rule:
- (a) Pursuant to a protective proceeding under ORS Chapter 125, the Probate Court may find the child to be incapacitated to make educational decisions and may appoint a guardian to exercise these rights.
- (b) Under ORS 419B.220 or ORS 419C.220, the Juvenile Court may appoint a surrogate parent to exercise these rights if the child is a ward of the state.
- (3) School districts are not responsible for the costs of a protective proceeding unless the school district is the Petitioner.
- (4) Pursuant to OAR 581-015-2320(9), a child to whom rights transfer may request that a surrogate be appointed to exercise the child's special education rights.
- (5) This rule applies to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.

581-015-2330: Notice of Transfer of Rights at Majority

- (1) The school district must provide notice to the child and the parent that rights will transfer at the age of majority. This notice must be provided at the IEP meeting and documented on the IEP:
- (a) At least one year before the child's 18th birthday; or
- (b) Upon actual knowledge that within a year the child will likely marry or become emancipated before age 18.
- (2) The school district must provide written notice to the child and to the parent at the time of the transfer of rights.

The parents of students with disabilities act on behalf of the student for the purpose of educational decision making until the student turns 18, which is the age of majority in Oregon. When a student reaches the age of majority, all procedural safeguard rights transfer to the student.

What happens when rights transfer to the student?

When rights transfer to a student at the age of majority the case manager must ensure all procedural rights are provided to the student. **The student fulfills all roles formerly filled by the parent in all steps of the special education process. Prior Notice is provided to the student and any consent required is obtained from the student.** You should still send meeting notices to the parent, but the parent may not attend the meeting unless invited by the student or the district (as a person with knowledge or special expertise about the student). The case manager should ensure that students and parents understand this change and are prepared for the transfer.

Is the district required to provide notice of transfer of rights?

Yes. One year before the student's 18th birthday, or upon knowledge that within a year the student will marry or become emancipated, the district is required to provide notice that rights will transfer to the parent and student. This verbal notice must occur at an IEP meeting and must be documented that it occurred on the student's IEP. The district must also provide a copy of the Procedural Safeguards *to the student* at this time.

When the student turns 18 and rights actually transfer to the student, the Student Services Office will send written notice to the case manager, the student and the parent that this has occurred. A copy of this letter will be sent to the case manager to place in the student's file.

Are there circumstances when rights do not transfer to the student?

When a student reaches 18 years of age, all procedural safeguard rights legally transfer to the student, unless:

☐ Probate Court finds the student unable to make educational decisions for himself and appoints a guardian to act on the student's behalf to ensure the student's rights. The district is not responsible for the cost of these proceedings unless the district is the party petitioning the court.

☐ The student is a ward of the state, in which case a Juvenile Court may appoint a surrogate parent to act on behalf of the student to ensure the student's rights; or,

☐ If rights have transferred to the student, the student may request the district appoint a surrogate to act on his or her behalf.

Required district forms: The forms listed below are required when rights are, or will be transferring to a student with disabilities. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Oregon Standard IEP (OrSPED);
- ☐ Written notice of transfer of rights at the age of majority

Additional Resources:

ODE Transition Toolbox: www.ode.state.or.us/gradelevel/hs/transition/transtoolboxnews.aspx

Section 13: Discipline

581-015-2400: Definitions

For the purposes of OAR 581-015-2400 through 581-015-2445, the following definitions apply:

- (1) "**Behavioral intervention plan**" means an individualized plan, including positive interventions, designed to assist a student to decrease inappropriate behavior and increase or teach an alternative appropriate behavior.
- (2) "**Current educational placement**" means the type of educational placement of the child as described in the child's "annual determination of placement" document at the time of the disciplinary removal. It does not mean the specific location or school but the type of placement on the continuum of placement options (e.g. regular classroom with support; regular classroom with resource room support; special class; special school; home instruction, etc.).
- (3) "**Disciplinary removal**" means suspension, expulsion, or other removal from school for disciplinary reasons, including removals for mental health examinations for students who threaten violence or harm in public schools under ORS 339.250(4)(b)(C). It does not include:
 - (a) Removals by other agencies;
 - (b) Removals for public health reasons (e.g. head lice, immunizations, communicable diseases, etc.);
 - (c) In-school suspensions if the child continues to have access to the general curriculum and to special education and related services as described in the child's IEP, and continues to participate with nondisabled children to the extent they would in their current placement; or
 - (d) Bus suspensions, unless the student's IEP includes transportation as a related service, the district makes no alternative transportation arrangements for the student, and the student does not attend school as a result of the bus suspension.
- (4) "**Functional behavioral assessment**" means an individualized assessment of the student that results in a hypothesis about the function of a student's behavior and, as appropriate, recommendations for a behavior intervention plan.
- (5) "**Suspension**" means any disciplinary removal other than expulsion.

The district's Code of Conduct and disciplinary procedures are designed for use with all resident students in the district. However, when a student with a disability breaches the district's Code of Conduct, additional procedures must be followed. IDEA contains very specific requirements that districts must adhere to when disciplining students with disabilities. District personnel must be familiar with these requirements and ensure they are followed in all instances where a student with a disability is considered for disciplinary action. The discipline provisions in IDEA are complex. Case managers must ensure that building and district administrators are involved at all levels of disciplinary action decisions.

How do building personnel know which students must be given additional consideration prior to taking disciplinary action?

Administrators who administer discipline, their assistants, student facilitators, and counselors must be kept informed of which students are receiving special education services. The case manager should provide a master list of students eligible for special education in their building to these individuals at the beginning of each school year and update it regularly.

Building administrators should also be aware of which students are being considered for special education services but have not yet been determined eligible, as IDEA also gives protections to children who are not yet eligible for special education if the district:

- ☐ Has knowledge that the child was a child with a disability;
 - ☐ If, before a behavior that precipitated disciplinary action occurred the parent of the child expressed a concern in writing to an administrator or teacher of the child, that the child is in need of special education;
 - ☐ The parent requested a special education evaluation of the child;
- or
- ☐ School personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Director of Student Services, the principal, or other supervisory personnel of the district.
- If a parent has not allowed an evaluation, has refused special education services, has unilaterally revoked consent for services, or the child has been evaluated and determined not eligible, the district can discipline the student in the same manner as a student without a disability.

What types of disciplinary actions are addressed in IDEA?

There are three types of disciplinary actions that are addressed in IDEA:

- ☐ Disciplinary removals that do not constitute a change in placement: these are situations when cumulative days of suspension total fewer than 10 days, or situations where the

581-015-2405: Disciplinary Removals for Up to 10 School Days for Children with Disabilities

(1) School districts may remove a child with a disability who violates a code of student conduct from the child's current educational placement to an appropriate interim alternative educational setting, another setting, or suspension, for up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities. These removals are not considered a change in placement.

(2) During disciplinary removals described in section (1) of this rule:

(a) School districts are not required to provide access to special education and the general curriculum unless students without disabilities are provided access during this time.

(b) School districts are not required to determine whether the child's behavior resulting in disciplinary removal is a manifestation of the child's disability.

(3) For the purpose of counting days of suspensions under OAR 581-015-2405 through 581-015-2445:

(a) Suspensions of a half day or less are counted as a half day; and

(b) Suspensions of more than a half-day are counted as a whole day.

(4) For the purposes of determining "current educational placement" in subsection (1) of this rule:

(a) Children who received special education services in another state and are found eligible for special education in Oregon are treated as initially placed in special education in Oregon, and any days of suspension accrued in the former state are not counted toward the ten days.

(b) For children who move from one school district to another school district in Oregon, any days of suspension from the former district carry over to the new school district unless the school district does not have actual knowledge of the previous suspensions.

581-015-2410: Additional Disciplinary Removals of Up to 10 School Days Each (No Pattern)

(1) School districts may remove a child with a disability who violates a code of student conduct from the child's current educational placement to an appropriate interim alternative

cumulative days of suspension exceed 10 days but the district has determined there is not a recognizable pattern to the student's behavior and series of suspension(s).

☐ Disciplinary removals that constitute a change in placement: these are situations when the suspension or expulsion is for more than 10 consecutive days, or the removal is for more than 10 cumulative days and there is a recognizable pattern to the student's behavior and series of suspension(s).

☐ Disciplinary removals due to incidents involving weapons, drugs, or injurious behavior: these are situations when a weapon or controlled substance is involved in the incident, or the student has inflicted serious bodily injury, defined as bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of function.

It is important to note that the definition of weapon and controlled substance is specific in IDEA, and is different than the district's definition, especially as it pertains to knives and use of alcohol or over the counter medication. Under IDEA, the definition of weapon does not include a pocket knife with a blade less than 2 ½ inches long, unless it is used as a weapon, and the term "drug" only applies to controlled substances (not alcohol or over the counter medications). These distinctions are important if the district wants to implement certain discipline provisions of IDEA, in particular, the use of an Interim Alternative Placement.

What constitutes a "pattern"?

The administrator and the case manager must consider the following, on a case by case basis, when determining whether there is a recognizable pattern to the student's behavior and series of suspension(s):

☐ Whether the student's behavior is substantially similar to his or her behavior in previous incidents that resulted in suspension; *and*,

☐ The length of time of each removal, the total amount of time of removal, and the proximity of one removal to another.

If there is reasonable doubt as to whether a pattern is recognizable, but not yet substantiated, the administrator should move forward as if there is a recognized pattern.

What steps must be followed for each type of disciplinary action?

Disciplinary removals that do not constitute a change in placement:

☐ On the date the suspension occurs the administrator must provide the parent written notice of the disciplinary action. This is accomplished in the letter that is always provided upon suspension.

☐ The student's case manager and an administrator must review the IEP and placement of the student to be sure they are complete and all services are in place. At this time an IEP meeting is not required, but must be called if changes to the IEP or placement are

educational setting, another setting, or suspension for additional periods of up to ten school days in a school year to the same extent, and with the same notice, as for children without disabilities, if the removals do not constitute a pattern under section (2) of this rule. These removals are not considered a change in placement.

(2) School personnel must determine, on a case-by-case basis, whether the series of removals constitute a pattern:

(a) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(b) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of removals to one another.

(3) Services. During removals described in section (1) of this rule:

(a) School districts must provide services that are necessary to enable the child:

(A) To continue to participate in the general education curriculum, although in another setting; and

(B) To progress toward meeting the goals in the child's IEP.

(b) School personnel, in consultation with at least one of the child's teachers, determine the extent to which the services described in subsection (3)(a) of this rule are needed, and the location for delivery of those services.

(c) School districts are not required to determine whether the behavior resulting in removal is a manifestation of the child's disability.

(4) The determination in subsection (2) is subject to review under OAR 581-015-2445.

581-015-2415: Disciplinary Removals of More than 10 School Days (Pattern or Consecutive)

(1) A disciplinary removal is considered a change in educational placement and the school district must follow special education due process procedures if:

(a) The removal will be for more than 10 consecutive school days (e.g. expulsion); or

(b) The child will be removed for more than 10 cumulative school days from their current educational placement in a school year, and those removals constitute a pattern under OAR 581-015-2410(2).

indicated based on the review, or if any member of the IEP team requests a meeting. If this is a second or later suspension the case manager and administrator need to start thinking about whether a pattern (see above) is developing in the student's behavior. If there is a pattern, an IEP team meeting should be held to address the behavior through positive behavior planning. If there is a pattern, the school could "use up" all of the allowable 10 days of suspension, not have an appropriate behavior support plan in place, and not be able to suspend the student while a plan is developed. It is essential to plan proactively when a student is behaving in such a way that he or she will be suspended multiple times.

If the student is (1) suspended for the first time for more than 10 days (this would be a suspension pending expulsion), or (2) the cumulative number of days of suspension exceed 10 days but the district determined there is not a recognizable pattern to the student's behavior, the student may be suspended in the same manner as a student without a disability. In these situations the administrator and case manager must ensure educational services are provided beginning on the 11th day of suspension. Building administrators consult with the special education teacher to determine which services are necessary to allow the student to continue to progress in the general curriculum and advance appropriately on his or her IEP goals during the time they are suspended.

Disciplinary removals that constitute a change in placement:

☐ On the date the suspension occurs, the administrator must provide the parent written notice of the disciplinary action and the case manager must provide a copy of the *Procedural Safeguards: Parent Rights for Special Education* (even if the parent has already been provided a copy for the school year)

☐ The case manager must schedule an IEP meeting to be held within 10 business days of the suspension. The purpose of this meeting is to conduct a Manifestation Determination to determine if the student's behavior is the direct result of his or her disability. A Manifestation Determination begins with a review of all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents.

This review should result in the team determining:

(a) If the behavior was caused by, or had a direct and substantial relationship

	<p>to, the child's disability; or</p> <p>(b) If the behavior was the direct result of the school district's failure to implement the IEP.</p> <p>If the team determines that either (a) or (b) is applicable, the conduct must be determined to be a manifestation of the child's disability. If the basis for the team's determination is that the district did not implement the child's IEP, the district must take immediate steps to resolve the issue.</p> <p><input type="checkbox"/> At the same meeting as the Manifestation Determination, the team must review and revise the student's behavior plan, or if the student does not have a behavior plan in place,</p>
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(2) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a disciplinary removal under subsection (1) for a child with a disability who violates a code of conduct.

(3) Manifestation determination. Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district must determine whether the child's behavior is a manifestation of the student's disability in accordance with OAR 581-015-2420.

(4) Manifestation. If the determination under subsection (3) is that the child's behavior is a manifestation of the child's disability, the school district must:

(a) Return the child to the placement from which the child was removed, unless:

(A) The parent and school district agree to a change of placement as part of the modification of the behavioral intervention plan under subsection (4)(b);

(B) The school district removes the child to an interim alternative educational setting under OAR 581-015-2425 for a weapons or drug violation or for infliction of serious bodily injury; or

(C) The school district obtains an order from an administrative law judge under OAR 581-015-2430 allowing a change in placement to an interim alternative educational setting for injurious behavior; and

(b) Either:

(A) Conduct a functional behavioral assessment, unless the school district conducted a functional behavioral assessment before the behavior occurred that prompted the disciplinary action, and implement a behavior intervention plan; or

(B) If the student already has a behavior plan, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

(5) No manifestation. If the determination under subsection (3) is that the child's behavior is not a manifestation of the child's disability:

(a) The school district may proceed with disciplinary action applicable to children without disabilities under section (1) of this rule, in the same manner and for the same duration in which the procedures would be applied to children without disabilities.

(b) If the school district takes such action applicable to all children, the school district must:

(A) On the date on which the decision is made to remove the student under subsection (5), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315.

(B) Provide services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2435; and

(C) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to

develop a behavior plan. (If a Functional Behavioral Assessment has not yet been conducted, this must occur prior to the development of the behavior plan).

A Prior Notice of Special Education Action should be provided to the parent at the conclusion of the meeting, documenting the decisions of the team.

□ If the team determines the student's behavior is not a manifestation of his or her disability the student may be subject to the same disciplinary actions as a student without a disability. In these situations, the district must also ensure:

○ The IEP team revises the student's IEP as appropriate to address any changes determined necessary by the team;

○ The student's placement determination is revised as appropriate;

○ Educational services are provided as necessary to allow the student to continue to progress in the general curriculum and advance appropriately on their IEP goals during the time they are removed.

○ If an expulsion hearing is held, ALL of the student's records are provided to the hearing officer.

□ If the team determines the student's behavior is a manifestation of his or her disability the district may not expel the student. In these situations the administrator and case manager must ensure:

○ The IEP team revises the student's IEP as appropriate to address any changes determined necessary by the team;

○ The student's placement determination is reviewed and revised if appropriate.

Disciplinary removals due to incidents involving weapons, drugs, or injurious behavior that will constitute a change of placement.

□ On the date the removal occurs the administrator must notify the parents and provide the parent a copy of the *Procedural Safeguards: Parent Rights in Special Education*; (even if the parent has already been provided a copy for the school year)

□ The IEP team meets to review the student's FBA and behavior plan; or, if the student does not have a behavior plan, to develop one. The plan must address the behavior that caused the removal.

□ The team conducts a Manifestation Determination and revises the student's IEP as appropriate.

□ The district must provide services determined by the IEP team to the student in the interim alternative educational setting,

address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination or any decision about placement related to the disciplinary removal in section (1) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the disciplinary removal under subsection (1), whichever occurs first, unless the parent and school district agree otherwise.

581-015-2420: Manifestation Determination

(1) In determining whether the child's behavior is a manifestation of the child's disability, the school district, the parent, and relevant members of the IEP team (as determined by the parent and the district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(b) If the conduct in question was the direct result of the school district's failure to implement the IEP.

(2) If the school district, the parent, and relevant members of the IEP team determine that either subsection (1)(a) or (b) is applicable for the child, the conduct must be determined to be a manifestation of the child's disability.

(3) If the basis for the team's determination is that the school district did not implement the child's IEP, the school district must take immediate steps to remedy those deficiencies.

- ☐ Within 10 school days of the decision the district must determine whether the student's behavior is a manifestation of the child's disability; and
- ☐ Provide, as appropriate, a functional behavioral assessment, behavior intervention plan, and modifications designed to address the behavior so that it does not reoccur.

Note: Under IDEA 2004, a district may remove a student to an interim alternative education setting for incidents involving drugs, weapons, or injurious behavior, or the district may request an expedited due process hearing to obtain an order from an administrative law judge to order a change in placement of the child to an interim alternative educational setting for not more than 45 school days for injurious behavior.

Are there specific requirements for interim alternative educational settings?

Yes, an interim alternative educational setting must be determined by the student's IEP team; and enable the student to continue to participate in the general curriculum, although in another setting; and progress toward achieving the goals on his or her IEP.

581-015-2425: Removal to an Interim Alternative Educational Setting by School District

(1) Definitions:

(a) "**Drug**" means illegal drug or controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or otherwise legally possessed. It does not include alcohol or tobacco.

(b) "**Drug violation**" means the use, possession, sale or solicitation of drugs at school or a school function.

(c) "**Serious bodily injury**" means bodily injury, which involves substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

(d) "**Weapon**" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that it does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(e) "**Weapon violation**" means carrying a weapon to school or to a school function or acquiring a weapon at school.

(2) School districts may remove a child with disabilities from their current educational placement to an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 school days in a school year without regard to whether the behavior is determined to be a manifestation of the child's disability for:

(a) A drug or weapon violation as defined in subsection (1); or

(b) If the child has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the Department or a school district.

(3) A removal for a drug or weapon violation, or for inflicting serious bodily injury, is considered a change in placement.

(4) School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a removal under subsection (2) for a child with a disability who

violates a code of conduct.

(5) For removals described in subsection (2) of this rule, school districts must:

(a) On the date on which the decision is made to remove the student under subsection (2), notify the parents of that decision and provide the parents with notice of procedural safeguards under OAR 581-015-2315;

(b) Provide the services to the student in an interim alternative educational setting, determined by the IEP team, in accordance with OAR 581-015-2345;

(c) Within 10 school days of any decision to remove a child under subsection (2), determine whether the child's behavior is a manifestation of the child's disability in accordance with OAR 581-015-2420; and

(d) Provide, as appropriate, a functional behavioral assessment, and behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

(6) Placement pending due process hearing. If a parent requests a due process hearing because of a disagreement with the manifestation determination, removal to the interim alternative educational setting, or any decision about placement related to a disciplinary removal under section (2) of this rule, the child remains in the interim alternative educational setting pending the decision of the administrative law judge under OAR 581-015-2445, or until the end of the removal under section (2), whichever occurs first, unless the parent and school district agree otherwise.

581-015-2430: Removal to an Interim Alternative Educational Setting by Administrative Law Judge (Injurious Behavior)

(1) "Injurious behavior" means behavior that is substantially likely to result in injury to the child or to others.

(2) School districts may request an expedited due process hearing under OAR 581-015-2445 to obtain an order from an administrative law judge to order a change in placement of the child to an interim alternative educational setting for not more than 45 school days for injurious behavior.

(3) The interim alternative educational setting must meet the requirements of OAR 581-015-2435(2).

(4) The procedures in subsection (2) may be repeated if the school

district believes that returning the child to the original placement is substantially likely to result in injurious behavior.

(5) Nothing in this rule precludes a school district from seeking a court order to remove a child from the child's current educational placement to another placement if the district believes that the maintaining the child in the child's current educational placement is substantially likely to result in injurious behavior.

581-015-2435: Requirements of an Interim Alternative Educational Setting

An interim alternative educational setting under OAR 581-015-2415 and 581-015-2425 must:

- (1) Be determined by the child's IEP team; and
- (2) Enable the child to:
 - (a) Continue to participate in the general curriculum, although in another setting; and
 - (b) Progress toward achieving the goals in the child's IEP.

581-015-2440: Protections for Children Not Yet Eligible for Special Education

(1) The provisions of OAR 581-015-2400 through 581-015-2435 apply to children not yet identified as children with disabilities if the school district had knowledge that the child was a child with a disability.

(2) For the purposes of subsection (1) of this rule, a school district "had knowledge" if, before the behavior that precipitated the disciplinary action occurred:

- (a) The parent of the child expressed a concern in writing to supervisory or administrative school personnel, or a teacher of the child, that the child is in need of special education and related services;
- (b) The parent of the child requested a special education evaluation of the child; or
- (c) The teacher of the child, or other school personnel, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district's director of special education or other supervisory personnel of the district.

(3) Notwithstanding subsections (1) and (2) of this rule, a school district will not be considered to have had knowledge that the child was a child with a disability if:

(a) The parent of the child has not allowed an evaluation of the child or has refused services under OAR 581-015-2090; or

(b) The child has been evaluated in accordance with OAR 581-015-2090 through 581-015-2180, and the child was determined not eligible.

(4) If the school district did not have knowledge before taking disciplinary action against the child, the district may take the same disciplinary actions as applied to children without disabilities who engaged in comparable behaviors.

However:

(a) If a special education evaluation is requested or if the school district initiates a special education evaluation, the evaluation must be conducted in an expedited manner.

(b) Until the evaluation is completed, the child remains in the educational placement determined by school personnel, which can include suspension, expulsion, or placement in alternative education under OAR 581-021-0071.

(c) If, on completion of the evaluation, the child is determined to be a child with a disability, the school district must conduct an IEP meeting to develop an IEP and determine placement and must provide special education and related services.

(d) The provisions of OAR 581-015-2400 through 581-015-2435 and OAR 581-015-2445 apply beginning on the date of the eligibility determination.

Required district forms: The forms listed below are required at certain times or for certain actions as part of the Discipline provisions in IDEA. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Notice of Team Meeting;
- ☐ Functional Behavioral Assessment;
- ☐ Behavior Intervention Plan;
- ☐ Manifestation Determination;
- ☐ Oregon Standard IEP (OrSPED);
- ☐ Placement Determination;
- ☐ Prior Notice of Special Education Action;

Section 14: Home schooled students	
<p>581-021-0029: Home Schooling for Children with Disabilities</p> <p>(1) The definitions in OAR 581-021-0026 apply to this rule, along with the following definitions:</p> <p>(a) "District" means the student's resident school district under 339.133</p> <p>(b) "Child with a disability" means a child between the ages of 7 and 18 whose parent or guardian seeks exemption from compulsory school attendance under ORS 339.030(1)(c) or (1)(d) and who meets eligibility criteria for a specific disability category under OAR 581-015-0051.</p> <p>(c) "Individualized educational program" (IEP) is defined under OAR 581-015-0005(11).</p> <p>(d) "Privately developed plan" (PDP) means an individual plan developed by a team including the parent and one or more private service providers to address the educational needs of a child with a disability. A PDP shall include individual educational goals for the student and a statement indicating how satisfactory educational progress will be determined for the student.</p> <p>(e) "Satisfactory educational progress" means educational progress across academic and/or developmental areas appropriate to the child's age and abilities. The student need not complete all individualized educational program or privately developed plan goals for the team to determine that the student is making satisfactory educational progress.</p> <p>(2) Notice Requirements:</p> <p>(a) Parents shall notify the ESD superintendent of intent to home school a child with a disability in accordance with OAR 581-021-0026(1)(f) and (4).</p> <p>(b) The ESD superintendent shall notify the district if the ESD receives notice that a parent intends to home school a child with a disability.</p> <p>(c) The district shall provide written notice to the parent that it stands ready to provide a free appropriate public education if the child enrolls in the district. This notice shall be provided annually as long as:</p> <p>(A) The child remains eligible for special education; and</p> <p>(B) The child is exempt from compulsory education as a home schooled child; and (C) The child is not receiving special education and related services from the district.</p> <p>(3) Testing and Reporting Requirements:</p> <p>(a) If a child with a disability is receiving IEP services from a district and the IEP includes a provision for IEP team assessment of satisfactory educational progress, the district shall:</p> <p>(A) Complete this assessment according to the schedule identified in OAR 581-021-0026(6); and</p> <p>(B) Provide the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability.</p> <p>(b) If a child with a disability is receiving services under a PDP, and the PDP</p>	<p>If parents choose to home school their child they must notify the Malheur Education Service District (MESD) of their intent to home school. The ESD then notifies the district of the parents' intent. The following home school requirements apply only to students age 7-18, as this is the age range that compulsory school attendance regulations apply.</p> <p>Note: Children enrolled in an online charter school are not considered home-schooled students.</p> <p>Are parents who are home schooling their child required by law to have their child participate in special education services provided by the district?</p> <p>No, parents who are home schooling their child can elect to provide services privately.</p> <p>What are the district's responsibilities for home schooled students?</p> <p>When the district receives notice from the ESD that a parent intends to home school a child with a disability or that a child with a disability is being home schooled, the Student Services Office attempts to discover why the parent has chosen to home school, if the parent expects to have his or her child participate in special education, and if there are other factors that would affect the response of the district to the parent. The Student Services Office then provides written notice to the parent that it stands ready to provide a free appropriate public education to their child if the parent enrolls the child in the district. We provide this notice to the parent annually as long as the child remains eligible for special education, is home schooled, and is not receiving special education and related services from the district.</p> <p>If the parent elects to seek special education services, the school the student would otherwise attend is responsible for evaluation and provision of services. If there is a student who is being home schooled who lives in your school's attendance area, you will be notified by Student Services.</p> <p>The school the student would otherwise attend offers the parent an opportunity for an IEP meeting to consider providing special education and related services to the child with a disability in conjunction with home schooling. The school is only required to develop an IEP if the IEP team determines that a free appropriate public education can be provided in conjunction with home schooling.</p> <p>Special education services are provided in the home only to the extent that</p>

includes a provision for assessment of satisfactory educational progress, the PDP team shall:

(A) Complete this assessment according to the schedule identified in OAR 581-021-0026(6); and

(B) Provide the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability.

(c) Parents who are home schooling a child with a disability shall do one of the following:

(A) If the district has conducted an assessment under subsection (3)(a)(A), retain documentation of the child's progress under subsection (3)(a)(B) and, upon request, report this information to the ESD on the same schedule as required under OAR 581-021-0026(6); or

(B) Ensure that the child's progress is evaluated according to a privately developed plan, and retain and report progress, upon request, on the same schedule as required by OAR 581-021-0026; or

(C) Follow the testing and reporting requirements in OAR 581-021-0026.

(d) Parents of a child who is not identified under OAR 581-015-0051 but who is disabled under Section 504 of the Rehabilitation Act shall comply with subsections (B) or (C), above.

(4) If the IEP or PDP team determines that the child has not made satisfactory educational progress, the superintendent shall

special education or related services would be provided in the home if the child were not home schooled.

If an IEP is developed, the child's parent must be considered as both parent and regular education teacher of the child unless the parent designates another individual as the regular education teacher.

When the IEP team is considering the "extent of non-participation in regular education" the IEP must state the child is exempt from compulsory school attendance and regular education is provided through home schooling.

Satisfactory educational progress must be determined for every home schooled student. If the district develops an IEP for a home schooled student with disabilities the IEP must identify how "satisfactory educational progress" will be determined through assessment. If the school team is to complete the assessment they must provide the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability. It is the responsibility of the ESD to take action if it is determined the student is not making satisfactory educational progress.

A child may also receive services under a privately developed plan (PDP), which is an individual plan developed by a private team (that does not include the district) which includes one or more private service providers and the parent to address the educational needs of a child with a disability. A PDP must include individual educational goals for the student and a statement indicating how satisfactory educational progress will be determined.

If the child is receiving services under a PDP, and the PDP includes a provision for assessment of satisfactory educational progress, the PDP team completes the assessment and provides the parent with a copy of the results, including a summary statement indicating whether the child has made satisfactory educational progress in light of the child's age and disability.

take the actions identified in OAR 581-021-0026 in the sequence stated.

(5) District responsibilities for home schooled children with disabilities:

(a) When the district receives notice that a parent intends to home school a child with a disability or that a child with a disability is being home schooled, the district shall offer, and document to the parent;

(A) An opportunity for the child to receive special education and related services if the child were enrolled in the district; and

(B) An opportunity for IEP meeting to consider providing special education and related services to the child with a disability in conjunction with home schooling.

(i) An IEP shall only be developed for a child with a disability if the IEP team determines that a free appropriate public education can be provided in conjunction with home schooling.

(ii) Services may be provided in the home only to the extent that special education or related services would be provided in the home if the child were not home schooled.

(b) The child's IEP team shall be convened and conducted, and an IEP developed, consistent with the requirements in OAR Division 15, with the following exceptions:

(A) The child's parent shall be treated as both parent and regular education teacher of the child unless the parent designates another individual as the regular education teacher;

(B) Under "extent of non-participation in regular education" the IEP shall state that the child is exempt from compulsory school attendance and regular education is provided through home schooling; and

(C) The IEP shall state how "satisfactory educational progress" will be determined for the student.

(i) If the IEP team determines that the testing requirements of OAR 581-021-0026 are appropriate for the child, the provisions of OAR 581-021-0026(6) shall apply to the child.

(ii) If the IEP team determines that the testing requirements of OAR 581-015-0026 are not appropriate for the child, the IEP team shall

Is the district responsible for reevaluation of a home schooled student for continued eligibility for special education services?

Yes, if the child is participating in special education services in the district in conjunction with home schooling. The district is responsible for completing the same evaluation process every three years for home schooled children with disabilities as is required for students with disabilities enrolled in the district.

However, if the team determines that specific evaluation is necessary to continue eligibility or to determine appropriate special education and related services for the child's IEP, and the parent refuses consent for such evaluation, or refuses to make the child available, the case manager should document to the parent that the district stands ready to conduct the evaluation when the parent gives consent or makes the child available.

If the district does not have sufficient evaluation information to determine eligibility or to develop an IEP, the district is not required to complete these activities. In this situation the district must provide written prior notice if the district terminates eligibility or services due to these circumstances.

Do parents of home schooled students with disabilities have the same procedural safeguard rights under the IDEA?

Parents of home schooled children with disabilities have the same procedural safeguards rights as parent of children with disabilities enrolled in the district, except for the following:

☐ if the parent disagrees with the IEP team's evaluation regarding satisfactory educational progress, the parent is not entitled to an independent educational evaluation at public expense; and,

☐ The parent may not request a due process hearing to contest a district's decision not to provide special education and related services in conjunction with home schooling.

identify another measure that will be used to determine whether the child has made satisfactory educational progress.

(iii) Notwithstanding subsections (i) and (ii), a parent may use a PDP to determine whether the child has made satisfactory educational progress. If so, the IEP shall indicate that satisfactory educational progress will be determined by the PDP team at parent request.

(c) Children with disabilities shall be reevaluated at least every three years in accordance with OAR 581-015-0072 through 581-015-0074 and 581-015-0701.

(A) If the team determines that specific evaluation is necessary to continue eligibility or to determine appropriate special education and related services for the child's IEP, and the parent refuses consent for such evaluation, or refuses to make the child available, the district shall document to the parent that the district stands ready to conduct the evaluation when the parent gives consent or makes the child available.

(B) If the district does not have sufficient evaluation information to determine eligibility or to develop an IEP, the district is not required to complete these activities. The district shall provide prior written notice under OAR 581-015-0075 if the district terminates eligibility or services under these circumstances.

(d) Child find:

(A) If a district suspects that a home schooled child has a disability under OAR 581-015-0051, the district shall:

(i) Obtain parent consent for initial evaluation under OAR 581-015-0039; and

(ii) Conduct an initial evaluation and determine the child's eligibility to receive special education and related services consistent with OAR 581-015-0051, 0053, 0071, 0072, 0073, and 0701.

(B) If the child is eligible, the district shall notify the parent and shall offer and document to the parent an opportunity for an IEP meeting to consider initiation of special education and related services to the child with a disability.

(C) If the parent refuses consent, does not respond, or

refuses to make the child available, the district shall document to the parent that the district stands ready to conduct the evaluation when the parent gives consent or makes the child available.

(D) If a parent does not respond or refuses to meet to consider initiation of special education and related services, the district has no further obligation to initiate the offer of a free appropriate public education as long as the child is exempted from compulsory education as a home schooled child.

(6) If the district permits partial enrollment of home schooled children in its regular education program, the district shall permit children with disabilities to participate to the same extent as non-disabled children, if appropriate, whether or not the child is receiving IEP services from the district.

(a) If the child is receiving IEP services from the district, the IEP team shall determine the appropriateness of participation and the IEP shall include necessary modifications and accommodations related to the participation. Notwithstanding subsection (5)(b)(A), if the IEP calls for participation in any part of the district's regular education program, the IEP team shall include a district regular education teacher in accordance with OAR 581-015-0066(3).

(b) If the child is not receiving IEP services from the district, the district shall consider the participation, and necessary modifications and accommodations for the child under Section 504 of the Rehabilitation Act.

(7) A child who is exempt from compulsory school attendance as a home schooled child with a disability will continue to be considered an exempt home schooled child even though:

(a) The child receives special education and related services from the district, unless these services are the equivalent of full-time enrollment in the district; or

(b) If the district permits partial enrollment of home schooled children and, pursuant to that policy, the child attends one or more regular education classes.

(8) Parents of home schooled children with disabilities have the same procedural safeguards as children with disabilities enrolled in the district, except for the following:

(a) A parent is not entitled to an independent educational evaluation at public expense under OAR 581-015-0094 if

the parent disagrees with an IEP team evaluation regarding satisfactory educational progress under this rule.
(b) A parent may not request a due process hearing under OAR 581-015-0081 to contest a district's decision not to provide special education and related services in conjunction with home schooling.
(c) Complaints that a school district has failed to meet any of the requirements under OAR 581-021-0029(5) or (8) may be heard under OAR 581-015-0054.

Required district forms: The forms listed below are required at certain times or for certain actions when a student is, or may be a student with a disability and is being home schooled. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ *Prior Notice about Evaluation/ Consent for Evaluation;*
- ☐ Agreement between Parents and the District;
- ☐ Minutes of Evaluation/ Reevaluation Planning Meeting;
- ☐ Prior Notice of Special Education Action;
- ☐ Prior Notice and Consent for Initial Provision of Special Education;
- ☐ *Eligibility Determination(by disability);*
- ☐ Notice of Team Meeting
- ☐ Parents Rights for Special Education Handbook;
- ☐ Authorized for Release of Information form

Additional Resources:

- ☐ ODE Home Schooling Resources for students with disabilities: <http://www.ode.state.or.us/search/page/?id=376>
- ☐ OSD Home Schooling Resources: <http://www.OSD.k12.or.us/administration/other/homeschool.html>

Section 15: Public Charter Schools

OAR 581-015-2075 Charter Schools

- (1) For all school purposes, residency for charter school children is determined in accordance with ORS chapter 338, revised 2011.
- (2) In accordance with procedural safeguards for special education, a school district must serve resident children with disabilities attending public charter schools located in the district in the same manner as the school district serves children with disabilities in other district schools, including but not limited to:
- (a) Identifying, locating, and evaluating students, in accordance with OAR 581-015-2100 – 581-015-2180, to determine which children enrolled in a public charter school may be in need of special education and related services
- (b) Implementing special education and related services according to each child's individual education programs (IEP) in accordance with OAR 581-015-2200 – 581-015-2230.
- (c) Providing supplementary and related services on site at the public charter school to the same extent to which the school district has a policy or practice of providing such services on site to its other public schools.

What are the requirements under IDEA regarding charter schools?

A charter school sponsored by a district is considered a school of the district when applying the legal requirements under the IDEA. Effective July 2011, the district where the charter school is located is responsible for FAPE for all students with disabilities enrolled in the charter school, whether or not the child is a resident of the district where the charter school is located.

This means the district is responsible for providing any and all required special education and related services in the same manner as services are provided to students in other public schools in the district. FRCS Charter School is currently the only charter school that resides in the Ontario School District.

If a parent of a student with a disability who is a resident of Ontario decides to enroll their child in a charter school that is not located in our district, the student is dropped from enrollment in OSD

and for all educational purposes the student becomes a resident of the district the charter school is located.

The OSD Learning Specialist and related service providers assigned to FRCS Charter School are responsible for case management and provision of special education or related services.

Required district forms: The forms listed below are required at certain times or for certain actions when a student is, or may be a student with a disability and is attending a public charter school. Not all forms will be required for every student as part of the process. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Prior Notice about Evaluation/ Consent for Evaluation;
- ☐ Agreement between Parents and the District;
- ☐ *Minutes of Evaluation/ Reevaluation Planning Meeting;*
- ☐ Prior Notice of Special Education Action;
- ☐ Prior Notice and Consent for Initial Provision of Special Education;
- ☐ Eligibility Determination (by disability);
- ☐ Notice of Team Meeting
- ☐ Parents Rights for Special Education Handbook;
- ☐ *Authorized for Release of Information form*

Additional Resources:

- ☐ ODE Charter School Technical assistance documents: <http://www.ode.state.or.us/search/page/?id=1270>

Section 16: Student Records

581-021-0220: Definitions

As used in OAR 581-021-0220 through 581-021-0440, the following definitions apply:

(1) "**Attendance**" includes, but is not limited to:

- (a) Attendance in person or by correspondence; and
- (b) The period during which a person is working under a work-study program.

(2) "**Directory Information**" means those items of personally identifiable information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.

Directory information may include, and is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

(3) "**Disclosure**" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(4) "**Disciplinary action or proceeding**" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

(5) "**Educational Agency or Institution**" means any public or private school, education service district, state institution, private agency or youth care center providing educational services to students birth through age 21, and through Grade 12, that receives federal or state funds either directly or by contract or subcontract with the Department under any program administered by the U.S. Secretary of Education or the Department.

(6) "**Education Records**":

(a) The term means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution;

Student records are any and all materials that contain information directly related to a student that are retained by the district. Student records are maintained for a variety of purposes. Typically they are used as a record of the students progress in school, as documentation of the programs and services in which the student has participated, to provide critical information for educational planning, and to document student achievement. The district also maintains student records to demonstrate compliance with state and federal laws and to demonstrate accountability. Records must be maintained in ways that protect their confidentiality as well as physical safety. Safeguarding the confidentiality of student records is the responsibility of every educator in the district.

Anyone handling files with personally identifiable information must be familiar with the laws regarding keeping records safe and confidential. Case managers should familiarize themselves with the *Parent Rights for Special Education* brochure and the districts Student Record Procedures to ensure they create, maintain, and store records with integrity.

Are there specific requirements the district must ensure relating to student records?

Yes, the district is responsible for ensuring:

- ☐ Student records are accessed only by qualified district personnel, the student's parent, or a representative of the parent as authorized in writing;
- ☐ Safe and confidential storage of student records from the time they are created until the time they may be destroyed in accordance with state archive rules;
- ☐ Parents are informed of where records for their child are maintained and who is responsible for maintaining them;
- ☐ Parents are informed of the method for reviewing their child's records, how they may request an amendment to their child's records and of their control of release of records for their child;
- ☐ Parents have available to them interpretation of their child's records, if necessary; and
- ☐ Records are forwarded to appropriate parties upon written request or written notification from parents.

Student records must be kept in a secure, locked receptacle; such as a locking file cabinet. Grade books, behavior referrals, notes to parents, and other records that may be created or used on a day to day basis should not be left in a place where other students or teachers can see them. The district must also ensure that a students' permanent record is kept in a secure, locked, minimum one-hour fire-safe cabinet in the district. Each building must have one individual trained in the keeping of student records.

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	Who may have access to a student's records?
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(b) The term does not include:

(A) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(B) Records of the law enforcement unit of an educational agency or institution, subject to the provisions of OAR 581-021-0225.

(C) Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this subsection;

(D) Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

(i) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;

(ii) Made, maintained, or used only in connection with treatment of the student; and

(iii) Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.

(E) Records that only contain information relating to activities in which an individual engaged after he or she is no longer a student at that agency or institution;

(F) Medical or nursing records which are made or maintained separately and solely by a licensed health care professional who is not employed by the

District personnel must have a "need to know" to have access to a student's records. "Need to know" is determined based on the content of the student record and the employee's role in the district. Each building must post, in locations where records are kept, a list of the individuals who may have access to records.

Parents, legal guardians, and adult students and their representatives have the right to access their student records. If a request from any of these parties is made to view records, the district must provide access within a reasonable period of time, but in no case longer than 45 days after the request is made. If the parent requests interpretation of the record a knowledgeable district official must be made available to assist the parent in understanding the content of the record(s).

What if a parent requests a copy of their child's records?

Copies of records must be provided to a parent or eligible student upon request and at no cost. Building administrators should be made aware of any requests for copies of records.

Are there requirements for transferring student records?

Yes, the requirements for transferring records are specific to the type of transfer and are as follows:

□ When a student moves from school to school within the district the individual in the building who has been trained in maintaining student records gathers all records, including behavioral records, guidance and counseling records, health records, and any other educational records maintained at the building and transfers them to the appropriate school. This does not require written consent for release of records from the parent.

□ When a student transfers to a school outside the district the student's new district sends a written request for records. Once this request is received the district transfers all records requested to the new district. This transfer must occur within 10 days of receipt of the request.

Transferring records to a new district does not require written consent for release of records from the parent. Since there are specific requirements for copying and retaining certain records in the district for specific periods of time, the individual in each building trained to handle student records should be the individual responsible for the transfer.

□ When a student enrolls, or seeks to enroll in post secondary education or other educational programs that requires student records for admission, the district may transfer the requested records to the institution making the request. This transfer does not require a signed release.

Is transferring student records the same thing as releasing student records?

No, the requirements for *release* of student records are more restrictive. With the exception of records designated as "Directory Information", or a request for *transfer* of records, student

educational agency or institution, and which are not used for education purposes of planning.

(7) "**Eligible Student**" means a student who has reached 18 years of age, or a student who is attending only an institution of postsecondary education and is not enrolled in a secondary school.

(8) "**Institution of Postsecondary Education**" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond Grade 12) at which secondary education is provided.

(9) "**Parent**" means a parent of a student and includes a natural parent, a guardian, an individual authorized in writing to act as a parent in the absence of a parent or a guardian, or a surrogate parent appointed to represent a student with disabilities. The term does not include the state if the child is a ward of the state and the student is eligible for special education services or is suspected of being eligible for special education services under state and federal law.

(10) "**Party**" means an individual, agency, institution, or organization.

(11) "**Permanent record**" means the educational record maintained by the educational agency or institution which includes:

(a) Name and address of the educational agency or institution;

(b) Full legal name of the student;

(c) Student's birth date and place of birth;

(d) Name of parents/guardians;

(e) Date of entry into the school;

(f) Name of school previously attended;

(g) Courses of study and marks received;

(h) Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;

(i) Credits earned;

(j) Attendance;

(k) Date of withdrawal from school;

(l) Social security number, subject to subsection (1)(j) of this rule; and

(m) Such additional information as the educational agency or institution may prescribe.

(12) "**Personally Identifiable Information**" includes, but is not

records may not be released to any person or agency without the written consent of the parent, adult student, or legal guardian. The release must include the name of the student, the specific records that will be disclosed, the purpose for which the information will be used, and the name of the person who will receive the information. The release must also contain a statement that the information will not be released to any other individual without the consent from the parent, adult student, or legal guardian.

Under the following circumstances, records may be disclosed without prior consent :

☐ To school board members during executive session;

☐ To authorized government agencies for audit or program evaluation purposes;

☐ To accrediting organizations;

☐ In response to a judicial order or subpoena;

☐ If there is a health or safety emergency that involves law enforcement, DHA, or health care professionals;

☐ To organizations conducting students for, or on behalf of, educational agencies or institutions to develop, administer tests, student aid programs, or to improve instruction.

The district must clearly document when a student record is released and under what circumstance(s).

Note: "Directory Information" is defined in the district Student Rights and Responsibilities Handbook.

Is it legal to send confidential records such as evaluation reports and IEPs as attachments to an email?

Yes it is legal, but as with any means of transmitting confidential records, there is a risk that it will inadvertently be sent to the wrong person.

☐ If a staff member is transmitting an evaluation report or IEP to a parent as an attachment to an email, to avoid the risk of sending the document to someone who is not entitled to have the attached record, the staff member must ensure the recipient's email address is typed correctly.

☐ Staff members must also include the following confidentiality statement in the signature line of their email: "**CONFIDENTIALITY NOTICE:** This e-mail message is for the sole use of the intended recipient(s) and may contain confidential information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message."

limited to:

- (a) The student's name;
 - (b) The name of the student's parent or other family member;
 - (c) The address of the student or student's family;
 - (d) A personal identifier, such as the student's social security number or student number;
 - (e) A list of personal characteristics that would make the student's identity easily traceable; and
 - (f) Other information that would make the student's identity easily traceable.
- (13) **"Record"** means any information recorded in any way including, but not limited to, handwriting, print, tape, film, microfilm and microfiche.
- (14) **"Student"** means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.
- (15) **"Substitute care program"** means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.
- [Publications: Publications referenced are available from the agency.]

581-015-2300: Access to Student Education Records

- (1) School districts must give parents of children with disabilities an opportunity to examine all student education records in accordance with OAR 581-021-0220 through 581-021-0440.
- (2) This provision includes all education records with respect to:
 - (a) The identification, evaluation, and educational placement of the child; and
 - (b) The provision of a free appropriate public education to the child.

581-021-0265: Confidentiality of Student Education Records

- (1) Each school district shall keep confidential any record maintained on a child with a disability in conformance with OAR 581-021-0220 through 581-021-0440.
- (2) Each school district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (3) One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable

When a student leaves the district should I keep a copy of all the students' special education records?

No, the district is only required to keep a copy of the most current eligibility, the most current

IEP, and the Prior Notice and Consent for the Initial Provision of Special Education. These documents should be housed in your department's "dead files" and they move along with the appropriate grade level/class at the end of the year check out with Student Services.

information.

(4) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under OAR 581-015-0055 through 581-015-0606 and 581-021-0220 through 581-021-0440.

581-021-0330: Prior Consent to Disclose Information

(1) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in OAR 581-021-0340.

(2) "Signed and dated written consent" under this part may include a record and signature in electronic form that:

- (a) Identifies and authenticates a particular person as the source of the electronic consent; and
- (b) Indicates such person's approval of the information contained in the electronic consent.

(3) The written consent must:

- (a) Specify the records that may be disclosed;
- (b) State the purpose of the disclosure; and
- (c) Identify the party or class of parties to whom the disclosure may be made.

(3) When a disclosure is made under section (1) of this rule:

- (a) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
- (b) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(4) If a child is enrolled or is going to enroll in a private school that is not located in the child's resident school district, parent consent must be obtained before any personally identifiable information about the child is released between officials of the school district where the private school is located and the resident school district.

581-021-0255: Transfer of Student Education Records

(1) Within ten days of a student seeking enrollment in or services from a public or private school including an ESD, or when a student is placed in a state institution other than an institution of postsecondary education, or a private agency or youth care center (hereinafter referred to as the new educational agency), the new educational agency must notify the public or private school,

education service district, institution, agency, or youth care center in which the student was formerly enrolled (hereinafter referred to as the former educational agency), and request the student's education records.

(2) Subject to ORS 339.260, the former educational agency must transfer all requested student education records to the new educational agency no later than 10 days after receiving the request.

(3) The education records transferred to the new educational agency must include any education records relating to the particular student retained by an education service district.

(4) The educational agency must retain originals of student education records for the time periods and under the conditions described in the record retention rule, OAR 166-400-0060, except that originals shall be transferred to a new education agency upon request.

(5) When original records have been transferred to a new educational agency as required in subsection (2) of this rule, readable photocopies of the following documents must be retained by the former educational agency or institution for the time periods and under the conditions as prescribed in the record retention rule, OAR 166-400-0060:

(a) The student's permanent record as defined in subsection (11) of OAR 581-021-0220; and

(b) Such special education records as are necessary to document compliance with state and federal audits.

(6) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, agency, facility or center shall notify the school, institution, agency, facility or center in which the student was formerly enrolled and shall request the student's education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, agency, facility or center receiving a request for a student's education records shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than five days after the receipt of the request.

581-021-0250: An Educational Agency or Institution's Policy Regarding Student Education Records

(1) Each educational agency or institution shall adopt a policy

regarding how the agency or institution meets the requirements of OARs 581-021-0220 through 581-021-0430. The policy shall include:

- (a) A description of how the agency or institution annually informs parents and students of their rights, in accordance with OAR 581-021-0260;
- (b) A description of how a parent or eligible student may inspect and review education records according to OAR 581-021-0270;
- (c) A statement that personally identifiable information will not be released from an education record without the prior written consent of the parent or eligible student according to OAR 581-021-0330, except under one or more of the conditions described in OAR 581-021-0340;
- (d) A statement indicating whether the educational agency or institution has a policy of disclosing personally identifiable information under OAR 581-021-0340(1), and, if so, a specification of the criteria for determining which parties are school officials and what the agency or institution considers to be a legitimate educational interest. With respect to students with disabilities, each educational agency or institution shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information;
- (e) A statement that a record of disclosures will be maintained as required by OAR 581-021-0400, and that a parent or eligible student may inspect and review that record;
- (f) Specification by the educational agency or institution of the types of personally identifiable information the agency or institution has designated as directory information under OAR 581-021-0390;
- (g) A statement that the agency or institution permits a parent or eligible student to request correction of the student's education records under OAR 581-021-0300, to obtain a hearing under OAR 581-021-0310(1), and to add a statement to the record under OAR 581-021-0310(3);
- (h) A statement that the educational agency or institution, as required by OAR 581-021-0260, annually notifies parents and eligible students of their rights to review and propose amendments to the student's education records;
- (i) A statement that the educational agency or institution

maintains a permanent record on each student;

(j) A statement that the educational agency or institution will request the social security number of a student and will include the social security number on the permanent student record only if the parent or eligible student complies with the request. The request shall include notification to the parent or eligible student that the provision of the social security number is voluntary and notification of the purposes for which the social security number will be used;

(k) A statement that the educational agency or institution provides for the retention of permanent records in a minimum one-hour fire-safe place in the educational agency or institution, or for keeping duplicate permanent records in a safe depository outside the building;

(l) A statement that the education agency or institution complies with OAR 581-021-0255 on the request for and transfer of student education records; and

(m) A statement that the educational agency or institution has a policy of disclosing personally identifiable information from an education record to an ESD, state regional program, or other educational agency or institution that has requested the records and in which the student seeks or intends to enroll or is enrolled or receives services from. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(2) For purposes of subsection (1)(l) of this rule:

(a) "Private agency" means an agency with which the Department of Education contracts under ORS 343.961; and

(b) "Youth care center" means a center as defined in ORS 420.855.

(3) The educational agency or institution shall state the policy in writing and make a copy of it available on request to a parent or eligible student.

581-021-0260 : An Educational Agency or Institution's Annual Notification

(1) Each educational agency or institution shall annually notify parents of students currently in attendance, and eligible students currently in attendance, at the agency or institution of

their rights under OAR 581-021-0220 through 581-021-0440.

(2) The notice must inform parents and eligible students that they have a right to:

- (a) Inspect and review the student's education records;
- (b) Request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (c) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that these rules authorize disclosure without consent;
- (d) Pursuant to OAR 581-021-0410, file with the U.S. Department of Education a complaint under 34 CFR 199.64 concerning alleged failures by the agency or institution to comply with the requirements of the Family Educational Rights and Privacy Act; and
- (e) Obtain a copy of the policy adopted under OAR 581-021-0250.

(3) The notice must include all of the following:

- (a) The procedure for exercising the right to inspect and review education records.
- (b) The procedure for requesting amendment of records under OAR 581-021-0300;
- (c) Regarding disclosure of education records to school officials and teachers within the education agency whom the agency has determined to have legitimate educational interest, a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest;
- (3) Each educational agency or institution shall annually notify parents and eligible students of what it considers to be directory information and the conditions for disclosure of such information as provided in OAR 581-021-0390.
- (4) Each educational agency or institution shall annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request.
- (5) The notice provided under section (1) of this rule must also indicate the places where copies of the policy adopted under OAR 581-021-0250 are located.
- (6) An educational agency or institution may provide this notice by

any means that are reasonably likely to inform the parents and eligible students of their rights;

(7) An agency or institution of elementary or secondary education shall effectively notify parents of students who have a primary or home language other than English.

(8) An educational agency or institution shall effectively notify parents or eligible students who are disabled.

[Publications: Publications referenced are available from the agency.]

581-021-0270: Rights of Inspection and Review of Education Records

(1) Except as limited under OAR 581-021-0290, each educational agency or institution shall permit a parent, an eligible student, or a representative of a parent if authorized in writing by the parent, to inspect and review the education records of the student.

(2) The educational agency or institution shall comply with a request for access to records:

(a) Within a reasonable period of time and without unnecessary delay;

(b) For children with disabilities under OAR 581-015-0051, before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing; and

(c) In no case more than 45 days after it has received the request.

(3) The educational agency or institution shall respond to the reasonable requests for explanations and interpretations of the records.

(4) If a parent or an eligible student so requests, the educational agency or institution shall give the parent or eligible student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in ORS 192.501(4) shall be provided unless authorized by federal law.

(5) The educational agency or institution shall not destroy any education records if there is an outstanding request to inspect and review the records under this rule.

(6) While an education agency or institution is not required to give an eligible student access to treatment records under the definition of "education records" in OAR 581-021-

0220(6)(b)(D), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.

581-021-0280: Fees for Copies of Education Records

(1) Student records are public records under ORS 192.410 through 192.505 but are exempt from disclosure except as authorized by OAR 581-021-0220 through 581-021-0440.

(2) Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution may charge a fee for a copy of an educational record which is made for the parent or eligible student subject to section (3) of this rule.

(3) Notwithstanding ORS 192.440(3), an educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

581-021-0290: Limitations on the Right to Inspect and Review Records

If the education records of a student contain information on more than one student, the parent or eligible student may inspect, review, or be informed of only the specific information about that student.

581-021-0300: A Parent or Eligible Student's Request for Amendment of a Student's Education Records

(1) If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the educational agency or institution to amend the record.

(2) The education agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.

(3) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under OAR 581-021-0310.

581-021-0310: Right to a Hearing to Challenge Content

(1) An educational agency or institution shall give a parent or

eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy or other rights of the student.

(2) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:

(a) Amend the record accordingly; and

(b) Inform the parent or eligible student of the amendment in writing.

(3) If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the educational agency or institution, or both.

(4) If an educational agency or institution places a statement in the education records of a student under section (3) of this rule, the agency or institution shall:

(a) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(b) Disclose the statement whenever it discloses the portion of the record to which the statement relates.

581-021-0340: Exceptions to Prior Consent

An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by OAR 581-021-0330 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to school board members during executive session pursuant to ORS 332.061, or to other school officials and teachers within the educational agency whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is to officials of another school, school system, institution of postsecondary education, education service district, state regional program, or other educational agency that has requested the records and in which the student seeks

or intends to enroll, or is enrolled in or receives services from the other agency or institution. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(3) The disclosure is, subject to the requirements of OAR 581-021-0370, to authorized representatives of:

- (a) The Comptroller General of the United States;
- (b) The Secretary of the U.S. Department of Education;
- (c) State and local educational authorities; or
- (d) The Oregon Secretary of State's Audit Division.

(4) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- (a) Determine eligibility for the aid;
- (b) Determine the amount of the aid;
- (c) Determine the conditions for the aid; or
- (d) Enforce the terms and conditions of the aid;
- (e) As used in this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an education agency or institution.

(5)(a) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- (A) Develop, validate, or administer predictive tests;
- (B) Administer student aid programs; or
- (C) Improve instruction.

(b) The agency or institution may disclose information under this section only if:

- (A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and
- (B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(c) For the purposes of this section, the term "organization" includes, but is not limited to, federal, state and local agencies, and independent organizations.

(6) The disclosure is to accrediting organizations to carry out their accrediting functions.

(7) The disclosure is to parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986.

(8) The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the requirements of OAR 581-021-0371.

(9) The disclosure is related to a legal action subject to the conditions of OAR 581-021-0372.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in OAR 581-021-0380.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in OAR 581-021-0390.

(12) The disclosure is to the parent of a student who is not an eligible student or to an eligible student.

(13) The disclosure is to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies subject to conditions described in OAR 581-021-0391.

581-021-0350: Limitations on the Redisclosure of Information

(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives information under this section may use the information, but only for the purposes for which the disclosure was made.

(2) Section (1) of this rule does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

(a) The disclosures meets the requirements of OAR 581-021-0340; and

(b) The educational agency or institution has complied with the requirements in OAR 581-021-0400(2).

(3) Section (1) of this rule does not apply to the following:

(a) Disclosures to parents of a dependent student under OAR 581-021-0340(7) or to an eligible student;

(b) Disclosures pursuant to court orders, lawfully issued subpoenas, or legal action under OAR 581-021-0340(8) or

(9);
(c) Disclosures of directory information under OAR 581-021-0340(11).
(4) When applicable, an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this rule.
(5) If the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records in violation of paragraph 1, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

581-021-0360: Conditions for the Disclosure of Information to Other Educational Agencies or Institutions

(1) An educational agency or institution that discloses an education record under OAR 581-021-0340(2) to officials of another school or school system where the student seeks or intends to enroll shall:

(a) Annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request;

(b) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(A) The disclosure is initiated by the parent or eligible student; or

(B) The annual notification of the agency or institution under !99.6 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;

(b) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(c) Give the parent or eligible student, upon request, an opportunity for a hearing.

(2) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(a) The student is enrolled in or receives services from the

other agency or institution; and

(b) The disclosure meets the requirements of section (1) of this rule.

581-021-0370: Conditions for the Disclosure of Information for Federal or State Program Purposes

(1) The officials listed in OAR 581-021-0340(3) shall have access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal or state legal requirements which relate to those programs.

(2) Information that is collected under section (1) of this rule must:

(a) Be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to in section (1) of this rule; and

(b) Be destroyed when no longer needed for the purposes listed in section (1) of this rule.

(3) Section (2) of this rule does not apply if:

(a) The parent or eligible student has given written consent for the disclosure under OAR 581-021-0330; or

(b) The collection of personally identifiable information is specifically authorized by state or federal law.

581-021-0380: Conditions for the Disclosure of Information in Health and Safety Emergencies

(1) An educational agency or institution shall disclose personally identifiable information from an education record to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

(2) Nothing in this Act or this part shall prevent an educational agency or institution from -

(a) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(b) Disclosing appropriate information maintained under paragraph (2)(a) of this section to teachers and school officials in other schools who have been determined to

have legitimate educational interests in the behavior of the student.

(3) Paragraphs (1) and (2) of this section will be strictly construed.

(4) As used in this rule, a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction, or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 418.750 to 418.760.

(3) Sections (1) and (4) of this rule shall be strictly construed.

581-021-0390: Conditions for the Disclosure of Directory Information

(1) An educational agency or institution may disclose directory information if it has given annual public notice to parents of students in attendance and eligible students in attendance at the educational agency or institution of:

(a) The types of personally identifiable information that the educational agency or institution has designated as directory information;

(b) A parent or eligible student's right to refuse to let the educational agency or institution designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a parent or eligible student has to notify the educational agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(2) An educational agency or institution may disclose directory information about former students without meeting the conditions in section (1) of this rule.

581-021-0400: Recordkeeping Requirements

(1) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student:

(a) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained;

(b) For each request or disclosure the record must include:

(A) The parties who have requested or received personally identifiable information from the education records;

(B) The date access was given; and

(C) The legitimate interests the parties had in requesting or obtaining the information.

(2) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under OAR 581-021-0350(2), the record of disclosure required under this section must include:

(a) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(b) The legitimate interests under OAR 581-021-0340 which each of the additional parties has in requesting or obtaining the information.

(3) The following parties may inspect the record relating to each student:

(a) The parent or eligible student;

(b) The school official or his or her assistants who are responsible for the custody of the records;

(c) Those parties authorized in OAR 581-021-0340(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(4) Section (1) of this rule does not apply if the request was from or the disclosure was to:

(a) The parent or eligible student;

(b) A school official under OAR 581-021-0340(1);

(c) A party with written consent from the parent or eligible student; or

(d) A party seeking directory information.

(e) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Required district forms: The forms listed below are required at certain times or for certain actions regarding educational records of students. Not all forms will be required for every student. District forms may be printed from the district website, our electronic SPED system, or obtained from the special education staff or counselor in each building.

- ☐ Authorized for Release of Information form;
- ☐ Consent to Disclose Educational Records to Oregon's Medicaid Agency

Additional Resources:

- ☐ OSD Student Records Policies & Procedures;
- ☐ OSD Student Handbook;
- ☐ *Parental Rights for Special Education* brochure;
- ☐ Oregon Department of Education "Student Education Records"