

## Special Education Frequently Asked Questions

### Table of Contents

- Procedural Safeguards
- Evaluation in Special Education
- Individualized Education Program (IEP)
- Special Education in North Dakota
- IDEA Advisory Committee
- Special Education Teaching Credentials
- Gifted Education
- Governor's School
- Extended School Year
- Assistive Technology
- Discipline
- Speech Language Pathology
- Alternate Assessment

### Procedural Safeguards

More information on procedural safeguards can be found in the document “Parental Rights for Public School Students Receiving Special Education Services at <http://www.dpi.state.nd.us/speced/guide/bluebk.pdf>. The DPI has also developed the Parent Guide to Special Education located at <http://www.dpi.state.nd.us/speced/guide/PGuide07.pdf> to more comprehensively explain parents’ rights and the process for a student to access special education services.

#### **Q. What are procedural safeguards?**

- A. Children with disabilities and their parents are guaranteed certain educational rights, known as procedural safeguards. Procedural safeguards for children and parents are precautions taken to ensure that an individual's rights are not denied.

#### **Q. When should a parent typically receive information about procedural safeguards?**

- A. At a minimum, a copy of the procedural safeguards must be given to the parents only one time a year, except that a copy also must be given :
1. upon initial referral for evaluation or parental request for evaluation;
  2. upon the first occurrence of the filing of a due process complaints;
  3. upon request by a parent;
  4. when a school notifies the parent that disciplinary action has been taken.

A school district may place a current copy of the procedural safeguards on its internet website if such a site exists.

### Evaluation in Special Education

More information about evaluation can be found in *Guidelines: Evaluation Process* at <http://www.dpi.state.nd.us/speced/guide/evalproc.pdf> .

#### **Q. What is the purpose of a special education evaluation?**

- A. A full, individual, appropriate evaluation of a child must be completed before any special education services begin or before a student is dismissed from special education services. The evaluation process attempts to answer the following questions:
- What do we already know about the total functioning of the student?

- What else do we need to know about the total functioning of the student to produce better results or to verify continuing designation as a child with a disability?
- What conclusions can be drawn from the assessments and existing information about the student's disability and how instruction might be improved to achieve better results for the student?
- Evaluation is not required before the termination of a child's eligibility due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under state law. Under these circumstances, the school district must provide the child with a summary of the child's academic achievement and functional performance which shall include recommendations on how to assist the child in meeting the child's post secondary goals.

**Q. How often are evaluations conducted?**

- A. A reevaluation may occur not more than once a year and must occur at least once every three years, unless the parent and the school district agree that a reevaluation is not necessary. If a parent requests more than one reevaluation in a year and the school district does not believe a reevaluation is needed, the school district must provide the parents with written notice of the school's refusal to conduct a reevaluation and the parent's right to contest the school's decision through mediation or a due process hearing.

**Q. What if parents disagree with a school's evaluation of their child?**

- A. Parents may request an independent educational evaluation (IEE) at school district expense if they disagree with an evaluation completed by the school district. However, parents are entitled to only one IEE at public expense each time you disagree with a specific evaluation or reevaluation that is conducted or obtained by the school district.

**Individualized Education Program (IEP)**

More information can be found in *Guidelines: Individualized Education Program Planning Process* at <http://www.dpi.state.nd.us/speced/guide/iep/IEP%20Guide%202007.pdf>

**Q. What is an individualized education program?**

- A. An individualized education program (IEP) is a written plan for a child with a disability that is developed, reviewed and revised according to federal and state regulations. It is the result of an essential process to ensure that individuals with disabilities have appropriate educational planning to accommodate their unique instructional needs.

**Q. Who must attend an IEP meeting?**

- A. All members of the IEP team are required to attend the IEP team meeting. A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the members area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP team may be excused from attending an IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if –

- a. The parent and the public agency 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 prior to the meeting.

**Q. Who must be on the IEP team?**

A. The school district must ensure that the IEP team for each child with a disability includes:

- parents of the child;
- not less than one regular education teacher of the child;
- not less than one special education teacher with training in the area of the child's disability;
- a representative of the school district who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child;
- an evaluator, or some other person who is knowledgeable about the evaluation procedures used with the child and can interpret the instructional implications of evaluation results;
- additional individuals, at the discretion of the parent or the district who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
- the child when appropriate, but always at age 16 and older;
- transition services personnel.

**Q. What is required if the IEP team determines the child's needs dictate a school day that deviates from the normal school day for peers who are not disabled?**

A. An explanation or justification is required on the IEP by the IEP team. Example of a need for shortened day: some children result in poor stamina. Example of a need for lengthened school day: to provide support services for activities that occur beyond the regular school day.

**Special Education in North Dakota**

**Q. What is the structure of special education school programs in North Dakota?**

A. Every school in the state must provide special education to children with disabilities who are in need of special education. School districts are organized into special education units that may be either single-district units or multi-district units. The units employ a special education director who administers programs in the unit.

**Q. What is the age range of children with disabilities who are served in school programs?**

A. Children ages three through twenty-one are provided with special education services.

**Q. How many children with disabilities receive special education services in North Dakota?**

A. Approximately 13,825 children with disabilities received services during the most recent school year.

**Q. What are the categories of special education eligibility?**

A. Children who have one or more of the following disability categories may be eligible for special education services: autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, orthopedic impairment, other health impairment, specific learning disabilities, speech or language impairment, traumatic brain injury, non-categorical delay and visual impairment.

## **IDEA Advisory Committee**

More information on the North Dakota IDEA Advisory Committee, including recent meeting minutes, is available at <http://www.dpi.state.nd.us/speced/idea/index.shtm> .

### **Q. What is the North Dakota IDEA Advisory Committee?**

A. The North Dakota Individuals with Disabilities Education Act (IDEA) Advisory Committee is a statewide committee made up of a variety of stakeholders who meet quarterly to advise the North Dakota Department of Public Instruction, Office of Special Education, regarding special education policies and programs in the state.

### **Q. Who are the members of the IDEA Advisory Committee and who appoints them?**

A. The majority of Committee members are parents of children with disabilities and consumers. Other members represent school districts and different agencies; such as the North Dakota of Human Services, the North Dakota Protection and Advocacy Project, North Dakota Juvenile and Corrections agencies, and North Dakota Institutions of Higher Education. Members are appointed by the North Dakota Superintendent of Public Instruction.

## **Special Education Teaching Credentials**

More information and credential application forms are available at <http://www.dpi.state.nd.us/speced/credential/index.shtm> .

### **Q. How are teaching licenses and special education credentials issued in North Dakota?**

A. The North Dakota Education Standards and Practices Board issues all teaching licenses. The North Dakota Department of Public Instruction issues special education credentials, which are in addition to a teaching license.

### **Q. Does the special education credential have to be renewed?**

A. As long as the teaching license is current, the special education credential is also current. The only time a credential renewal might be required is if the license is allowed to lapse or expire.

### **Q. What costs are involved?**

A. There is a fee charged by the North Dakota Education Standards and Practices Board for issuing and renewing the teaching license. There is no fee for issuing special education credentials.

### **Q. Why are the special education credentials no longer listed on the teaching license?**

A. Since the North Dakota Education Standards and Practices Board issues the license only, and does not issue special education credentials, legally the credentials can no longer be listed on the license. Teachers should keep copies of their special education credentials along with their license. Copies of special education credentials are also kept on file in the Office of Special Education and can be accessed at any time by teachers.

## **Gifted Education**

More information is available in *Guidelines for Gifted Programming, Volume I and II* at <http://www.dpi.state.nd.us/speced/guide/guidance/index.shtm> .

### **Q. Why is gifted education assigned to the Office of Special Education at the North Dakota Department of Public Instruction?**

A. In many states, such as North Dakota, gifted education is included in programs for exceptional children. Special education services for children with disabilities are mandated and must be provided to children who need them. Gifted education services, however, are optional and “may be” provided by school districts.

**Q. How are gifted education services funded in North Dakota?**

- A. The North Dakota State Legislature sets aside a small amount of funding to support gifted education. School districts receive funds when they employ qualified teachers for gifted education programs and adhere to state guidelines. State funds will pay for a portion of the qualified teacher's salary, but the local school district must pay the difference in the cost.

**Q. How many school districts in North Dakota currently provide gifted education?**

- A. Approximately ten (10) school districts provide gifted education. Most of the participating districts are the larger schools in the state, including Fargo, West Fargo, Bismarck, Minot, Dickinson and Grand Forks. This has been fairly consistent since state funding became available.

**Governor's School**

Detailed information is available regarding Governor's School at <http://www.dpi.state.nd.us/speced/general/govschl.shtm> .

**Q. Why is Governor's School assigned to the Office of Special Education at the North Dakota Department of Public Instruction?**

- A. The North Dakota Governor's School program was developed as part of a Federal gifted education grant in 1990.

**Q. What is Governor's School?**

- A. Governor's School is a six-week summer program in science, math, business/entrepreneurship and performing arts for highly able high school students who will be entering their junior or senior year. It is located on the North Dakota State University (NDSU) campus in Fargo and runs from early June through mid-July.

**Q. What are the costs and who can apply?**

- A. All costs of instruction, room and board are provided without charge to the students. Applications are available through local high school counselors or administrators. A selection committee, made up of high school teachers and Governor's School faculty from NDSU, reviews the applicants and selects students who are invited to attend.

**Extended School Year**

More information can be found in the Extended School Year Services for Students with Disabilities Guidelines at <http://www.dpi.state.nd.us/speced/guide/iep/IEP%20Guide%202007.pdf> .

**Q. How are Extended School Year (ESY) services determined?**

- A. The determination of whether a child with a disability needs ESY services must be made on an individual basis following the IEP process. The critical question that each IEP team must ask regarding ESY services is whether the learning that occurred during the regular school year will be significantly jeopardized if ESY services are not provided.

**Q. Who is eligible for ESY services?**

- A. All children with disabilities who have a current IEP must be considered for ESY services at least annually. To ensure a free appropriate public education (FAPE), the multidisciplinary team must consider and document whether ESY services are needed for each child regardless of the child's disability(ies). A school district may not limit ESY services to particular categories of disability, or unilaterally limit the type, amount or duration of those services. These requirements apply to all children with a disability between the ages of three and 21.

**Q. Who determines the need for ESY services?**

- A. Determination of need rests with the IEP team, which must be composed of the following individuals: parent(s) of the student, the child if appropriate, general education teacher(s), special education and related services providers, administrator or school district representative, and others as appropriate. IDEA 04 intends that all persons involved in the IEP process be active participants. Each person fulfills an important role by bringing and sharing critical information about the child and his or her need for ESY services.

**Assistive Technology**

More information can be found in the **Assistive Technology for Students with Disabilities Guidelines** at <http://www.dpi.state.nd.us/speced/guide/assist.pdf> .

**Q. Are schools required to provide assistive technology devices and services?**

- A. In accordance with the Individuals with Disabilities Education Improvement Act (IDEA) of 2004, public schools are required to provide assistive technology devices and services to an eligible student under IDEA if the student's Individualized Education Program (IEP) team determines that the student needs an assistive technology device and/or service to receive a free appropriate public education (FAPE) with the exception of a medical device that is surgically implanted or the replacement of that device. Assistive technology may be part of a student's special education program, a related service to special education, or a supplementary aid or service. The determination as to what is an appropriate program for each student must be identified in the content of the IEP.

**Q. Are schools required to pay for technology devices and services?**

- A. It is the responsibility of the school district to provide the equipment, services, or programs identified in the IEP, with the exception of a medical device that is surgically implanted or the replacement of that device. The school district is responsible for routine checks of hearing aids and the external components of surgically implanted devices to ensure they are functioning properly. The school district is not responsible for the post-surgical maintenance, programming, or replacement of a medical device that has been surgically implanted (or of an external component of that device).

A school district may pay for equipment, services, or programs, utilize other resources to provide and/or pay for the device and/or services, or cooperatively fund the device(s) and/or services. Other resources may include, but are not limited to Medicaid, foundations, fraternal organizations, church or social groups, charitable organizations, businesses, and individuals.

**Q. What professionals are considered qualified to assess a student in the area of assistive technology?**

- A. North Dakota does not have licensing or certification standards for specialists in assistive technology. However, school districts often have professionals who have received training to conduct assistive technology evaluations and who are able to provide the services identified in the IEP. If a district does not have personnel who are knowledgeable in conducting such evaluations, the district can arrange for such services from other knowledgeable providers.

## Discipline

More information can be found in the **Discipline Regulations for Students with Disabilities Policy Paper** at <http://www.dpi.state.nd.us/speced/guide/policy/policy01.pdf> .

### **Q. When must a student's specific behavioral needs be incorporated into the IEP?**

- A. When a student has a disability that prevents him or her from understanding or responding appropriately to a school rule or a component of a discipline code, exceptions need to be incorporated into the student's IEP. In these cases, the IEP team should complete a functional behavior assessment and develop a positive intervention plan. The purpose of this is to meet each of the student's educational needs resulting from the student's disability, including behavioral needs. In the case of a child whose behavior impedes the child's learning or that of others, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.

### **Q. What constitutes a "change of placement" in the disciplinary context?**

- A. For purposes of removal of a child with a disability from the child's current educational placement, a change of placement occurs if the removal is for more than 10 consecutive school days or the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the child's behavior is substantially similar to the previous incidents that resulted in the series of removals; and 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 the removals to one another.

### **Q. What is a manifestation determination?**

- A. A manifestation determination is the process of determining the relationship between a student's disability and misbehavior. The purposes of a manifestation determination are: to ensure the student is not being suspended or removed for behaviors that are related to his or her disability; and to ensure the school identifies any deficiencies in the student's IEP or placement or in their implementation and take immediate steps to remedy those deficiencies.

## Speech Language Pathology

### **Q. What are the requirements to receive a restricted speech language pathology license to be employed in a ND school?**

- A. The candidate must have a master's degree in speech language pathology from an ASHA accredited university program with at least 100 practicum hours in a school based setting.

### **Q. What is the difference between an SLP Assistant and an Aide?**

- A. Aides differ from assistants in their degree of training, and correspondingly, in the types of responsibilities that can be assigned to them (e.g. set up room for work sessions, prepare materials, order supplies). Training for aides is most accurately described as "on the job". See below question regarding SLP assistant (paraprofessional) requirements.

**Q. What are the requirements for a certificate of completion for a SLP paraprofessional (assistant)?**

- A. An SLPP must have either:
1. On or before October 1, 2003, have a BA in speech, language pathology or communication disorders and at least 100 clock hours of supervised field-related experience; or
  2. Have completed an associates or BA degree which incorporates:
    - a. 30 hours of general college education
    - b. 30 hours of college education in the area of speech, language pathology
    - c. 100 clock hours of supervised field-related experience.

More specific information relating to the SLPP can be found at <http://www.dpi.state.nd.us/speced/teacher/certcomp.pdf> .

**Alternate Assessment**

**More information on Alternate Assessment can be found at <http://www.dpi.state.nd.us/speced/resource/alternate/index.shtm> .**

**Q. If a student is in a grade for more than one year, and the state or district is testing at that grade, do they need to take the assessment each year?**

- A. Yes, all students must be tested along with grade level peers.

**Q. If a student does not meet the exact criteria for the North Dakota Alternate Assessment (NDAA), but the IEP team believes that the NDAA is the assessment tool which best meets his/her needs, can the NDALT be used for that student?**

- A. The IEP team has the responsibility to determine which assessment the student will participate in. The choices are:
1. The state assessment (NDSA) with no accommodations.
  2. The NDSA with accommodations (those used in the students general educational program), or
  3. The North Dakota Alternate Assessment (NDAA 1 or NDAA 2). See the website for specific information and criteria.
  4. Part of the NDSA and either the NDAA 1 or NDAA 2.

The decision made by the IEP team will be honored in the assessment process.

**Q. What if a parent decides that he/she does not want his/her child to participate in the Alternate Assessment even though the IEP team has identified the NDALT as the assessment tool of choice?**

- A. In the State of North Dakota, the parent does have the right to exclude their child from the assessment system, however, any student who is not included (no matter what the reason) is counted in the school's nonparticipation rate. No Child Left Behind identifies that there must be a minimum of 95% participation rate of all students or a school will be identified for school improvement.