



# Education Network

***UP Academy Dorchester***  
*Special Education Handbook*

*2020-2021*

## **Mission**

The UP Education Network will ensure its students acquire the knowledge, skills, and strength of character necessary to succeed on the path to college and achieve their full potential.

UP is committed to providing an excellent, individualized education to all students with disabilities.

All students receiving special education in any UP school, regardless of placement, shall have an equal opportunity to participate in and, if appropriate, receive credit for the vocational, supportive, or remedial services that may be available as part of the general education program as well as the non-academic and extracurricular programs of the school.

## **What We Believe**

- We believe that all students can meet their full potential given high expectations, rigorous curriculum based on state standards, and the right support.
- We believe in providing students with opportunities to be included with their general education peers.
- We believe in using data to track student progress and inform our instructional decisions.
- We believe in ongoing collaboration between general educators and special educators, so that students have access to a rigorous academic program based on state standards.
- We believe in designing individualized educational programs on a continuum of services that minimize the impact of a student's disability and meet the educational needs of each student. We do not believe in labels.

## **Description of the Handbook**

This handbook serves as a resource for the families of students attending UP Academy Dorchester. It is designed to provide families with the information they need to understand programming available for students with disabilities that is in compliance with state and federal law. The policies and procedures in this handbook are aligned with:

- Individuals with Disabilities Education Act of 2004 and its regulations 34 CFR 300 et seq.
- Massachusetts General Laws ch. 71, et seq. and its regulations 603 CMR 28.00 et seq.
- Section 504 of the Rehabilitation Act of 1973, as amended
- UP Education Network's Protocols

## **Our Staffing Structure**

UP Academy Dorchester's Special Education Department is led by a Dean of Special Education, who is supported by a Coordinator of Special Education, special education teachers, and related service providers.

### **Dean of Special Education**

Under the guidance of the Network's Director of Student Supports, and UP Academy's Principal, the Dean of Special Education oversees programming, monitors the implementation of policies, supports and coaches the other special education team members, and oversees the Coordinator of Special Education in compliance-related tasks. The Dean also works with other members of UP Academy Dorchester's leadership team to ensure that students with disabilities are integrated within the school and have the same opportunities as their peers who do not have disabilities.

### **Coordinator of Special Education**

The Coordinator of Special Education is responsible for ensuring that the special education program complies with state and federal special education law. The Coordinator of Special Education leads IEP meetings and IEP Evaluations.

### **Special Education Teachers**

All special education teachers are assigned to manage caseloads of students in special education and teach them according to their IEPs. As described in more detail below, students with disabilities at UP Academy Dorchester learn in a variety of settings. Those include co-taught general education classrooms and small pull-out groups. From time to time, depending on student need, some students learn in substantially-separate classrooms.

### **Related Service Providers**

Related services help students with disabilities benefit from their special education by providing support in non-academic areas of need, such as speaking, moving, and socializing. They collect data on the progress of their students and conduct formal evaluations as appropriate. The IEP team uses that data to determine what related services, if any, the child needs in order to progress academically and socially or to access the curriculum.

*Related services can include, but are not limited to, any of the following:*

#### *Counseling*

Students who receive counseling at UP Academy Dorchester either need to have counseling written into their IEPs or have been recommended for services through the Multi-Tiered System of Supports (MTSS) process, because a team has determined that the service is required. More information about this process can be found below. Sessions may be group or individual. School-based counseling focuses on helping students develop social-emotional skills necessary to promote academic and social success in the school setting.

#### *Speech-Language Therapy*

Speech language pathologists (SLPs) work with students on a range of issues, including developmental delays, expressive and receptive language delays, Apraxia, stuttering, phonological processing, auditory processing disorders, articulation disorders, Autism, neurological based disorders, ADD/ADHD, social/pragmatic delays, traumatic brain injuries, and other language based learning disabilities. The SLP works with teachers to collaborate on strategies that enable the student to access the general education curriculum in a way that promotes the most progress. Students may receive speech and language services in individual or small group sessions, as well as within classrooms, in a co-teaching/inclusion model. The SLP and teachers work together to integrate the students' speech and language goals with academic outcomes and functional performance.

#### *Occupational Therapy*

School-based occupational therapy might include addressing fine motor skills, working on handwriting, typing, improving ability to receive and process visual stimuli, improving visual motor skills (putting motor and visual perception together i.e. handwriting and copying from the board), and addressing sensory needs. Students may either receive occupational therapy in individual or small group sessions. Through consultation, an occupational therapist might suggest strategies for a student to use and accommodations for a teacher to implement in the classroom.

#### *Physical Therapy*

School-based physical therapy focuses on a child's ability to move as independently as possible in the school environment. Interventions are designed to enable the student to travel throughout the school environment; participate in classroom activities; maintain and change positions in the classroom; and increase ability to manage stairs, restrooms, and the cafeteria. Students may either receive physical therapy in individual or small group sessions. Through consultation, a physical therapist might suggest strategies for a student to use and accommodations for a teacher to implement in the classroom.

#### *Adapted Physical Education (APE)*

Adapted physical education may be required for students with disabilities when their disability significantly impacts their participation in general physical education. APE provides developmentally appropriate physical education by adapting or modifying the physical education curriculum to meet the individualized needs of students with disabilities.

## **Our Program Model**

At UP Academy Dorchester we believe in supporting all students to access our rigorous curriculum. We strive to include every child in the general education program to the greatest extent possible. We offer a continuum of services to UP Academy Dorchester students with disabilities. We provide services both in the general education classroom and in pull-out settings. At times, we have students who require more intensive services. They receive their academic instruction in a substantially separate classroom.

### **Inclusion Services**

Successful general education and special education teachers who provide excellent inclusive education know that educating students with disabilities in general education classes requires a team effort. Each student with a disability who is not enrolled in a substantially separate classroom is assigned to a general education cohort with other students at their grade level who do not have disabilities. The general and special educators work together to implement the IEP. Both teachers are responsible for achievement results of students with disabilities. They collaborate to plan lessons and teach classes. General educators plan the content of the lesson and make modifications and accommodations in partnership with the special educator. Special educators are responsible for communicating IEP goals and accommodations to the general educator. Together, they determine accommodations and modifications to lessons and materials to support students' learning needs. When there are two teachers in the room during a class, teachers can design lessons that are student-centered using strategies such as small group instruction and parallel teaching.

### **Pull-Out Services**

For pull-out services, at the student's scheduled service period, the special education teacher works with the student in a separate area, or in a small group in the classroom. Times for pull-out instruction are carefully designed to fit into the flow of the lesson and make sure students are getting services when the services will be most beneficial to the student.

### **Substantially Separate Classrooms**

At times, depending on student need, UP Academy might provide a substantially separate educational placement within the school. Teachers in substantially separate classrooms collaborate with general education teachers to develop lessons that are rigorous and standards-based. Substantially separate classrooms teachers align with the curriculum for students with significant cognitive disabilities who take alternate assessments with the curriculum of other students at their grade level. In the substantially separate classrooms, there may be students who still take traditional MCAS and are responsible for mastering grade level standards. Teachers will ensure that these students have access to the appropriate grade level content. Teachers will utilize "entry points," suggested academic outcomes that are aligned with each grade-level learning standard, in designing curriculum and instruction. Entry points are expectations that are below grade-level at varying levels of complexity, difficulty, and sophistication. Students will be expected to master a skill at the most challenging level of complexity to which he or she is capable as s/he progresses towards mastering the grade-level standard. IEP teams may also determine that certain students in these classrooms would benefit from spending portions of their day in inclusion settings. In these situations, students transition from the substantially separate classroom to the general education classroom for a predetermined amount of time, per week, in specific subject areas.

### **Instructional Grouping Requirements**

UP Academy maintains specific student-to-teacher ratios for special education groupings, in accordance with Massachusetts regulations.

#### *Pull-Out Groups*

Small pull-out groups are composed solely of students with disabilities and are taught by licensed special education teachers. When students in special education are assigned to

instructional groupings outside of the general education classroom for 60% or less of the students' school schedules, group size does not exceed the following:

- 8 students with a certified special educator, or
- 12 students if the certified special educator is assisted by 1 aide/resident teacher, or
- 16 students if the certified special educator is assisted by 2 aides/resident teachers.

### *Substantially Separate*

Sizes of substantially separate classrooms do not exceed the following:

- 8 students to 1 certified special educator, or
- 12 students to 1 certified special educator and 1 aide/resident teacher.

### *Increasing the Size of Small Pull-out Groups and Substantially Separate Classrooms*

After the school year has begun, UP Academy and the Network might decide to increase the size of pull-out groups or substantially separate classrooms. If instructional groups have already reached maximum size, up to two more students may be added, provided that they have comparable academic needs to the students already in the group. In this situation, the Network Director of Student Supports will provide written notification to DESE and the parents/guardians of all group members. This exception to group size requirements will be in effect only for the current academic year.

### *Age Requirements for Instructional Groups*

The ages of the youngest and oldest students in any instructional grouping must not differ by more than 48 months.

## **Identification and Evaluation Process**

### **Identifying Concerns**

If a child in general education is not progressing as well as the other children, or is exhibiting concerning behavior, UP Academy Dorchester strives to find out why and address the student's need as early as possible. This often begins when a teacher or parent raises a concern. The first step is to hold a discussion between the teacher, parent, and other relevant school personnel. Participants can share concerns, discuss the students' performance, and discuss strategies that can be used to support the student's learning.

### **Assisting Students in General Education**

UP Academy Dorchester works hard to support as many students as possible in the general education environment. UP Academy Dorchester offers a continuum of supports, with a goal of avoiding unnecessary referrals, for special education. UP Academy Dorchester uses a District Curriculum Accommodation Plan (DCAP) to assist teachers in implementing strategies that will enable students to succeed.

UP Academy recognizes that many of its students have gaps in foundational literacy, math, and socio-emotional skills that prevent them from performing at their maximum level. Through the DCAP and a robust Multi-Tiered System of Supports (MTSS) process, UP Academy uses a multi-level prevention system to maximize student achievement and reduce behavioral

problems. UP Academy Dorchester uses data to identify students at risk for poor learning outcomes, monitors student progress, provides evidence-based interventions and adjusts the intensity and nature of those interventions depending on a student's responsiveness. Within this system, there is a progression of support along three levels: Tier 1, Tier 2, and Tier 3. As students move through the framework's specified levels of prevention, their instructional program becomes more intensive and more individualized to target their specific areas of learning or behavioral need. Tier 1 is implemented through programs already built into the UP Academy Dorchester schedule which are differentiated for individual student needs. Tier 2 is implemented by teacher cohorts for students they have identified as needing additional support. If needed, teacher cohorts may refer students for Tier 3 interventions. As students move through the framework's specified levels of prevention, their instructional program becomes more intensive and more individualized to target their specific areas of learning or behavioral need.

Comprehensive implementation of this process contributes to more meaningful identification of learning and behavioral problems, improves instructional quality, provides all students with the best opportunities to success in school, and assists with the identification of educational disabilities and other school-based needs.

### **Special Education Referral**

For situations in which the MTSS process does not yield expected improvement or when the data suggests an educational disability, the MTSS team may refer a student for a formal evaluation to determine whether he/she has a disability that affects their access to the general education curriculum and qualifies for special education.

Faculty members, parents, or other persons with caregiving capacity may also initiate a referral for evaluation by contacting the Dean of Special Education or the Coordinator of Special Education. Once someone initiates a referral, orally or in writing, UP Academy Dorchester has five (5) school days to notify the parents of the referral and provide them with an evaluation consent form.

## **Evaluations**

To determine whether a student is eligible for special education, UP Academy Dorchester conducts a comprehensive evaluation in all areas of suspected disability. UP Academy Dorchester also conducts re-evaluations of students in special education every three years (or sooner if determined by the team) to determine continued eligibility.

The school will send home a consent form explaining the reasons for the proposed evaluation and which areas will be tested. Testing will not occur unless and until the parent/guardian signs a consent form.

Areas in which the student might be evaluated are listed below. The student's areas of difficulty will determine which assessments are appropriate.

The evaluation will include the following required assessments:

- Assessments in all areas related to the suspected disability;
- An educational assessment;
- A history of the student's educational progress in the general curriculum;
- A narrative description of the student's educational / developmental status; and
- A classroom observation.

The evaluation might also include some or all of the following optional assessments:

- Specialist Assessment(s) - Speech/Language, Occupational Therapy, Physical Therapy, Functional Behavioral Assessment (and others);
- Psychological Assessment;
- Academic Assessment;
- Home Assessment; and
- Health Assessment

Under the supervision of the UP Academy Dean of Special Education and the UP Director of Student Supports, the Coordinator will ensure that evaluations are tailored to assess the specific areas of educational and developmental needs. The Coordinator is responsible for ensuring that evaluators select tests and other evaluation methods that:

- are valid, reliable, and technically sound;
- assess all areas of the suspected disability including, if appropriate, health, vision, hearing, social and emotional functioning, general intelligence, academic performance, communication skills, and motor abilities;
- are administered and interpreted by trained and knowledgeable personnel;
- are administered in accordance with any instructions provided by the publisher;
- are selected and administered so as not to be discriminatory on a racial or cultural basis;
- are provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer;
- are not the sole criterion for determining an appropriate educational program; and
- are selected and administered to ensure that when a test is administered to a student.

Receipt of the signed consent form triggers a set of deadlines mandated by federal and state regulations.

Within 30 school days of receiving consent, evaluators must complete their assessments. They must complete summaries of their assessments no later than two days prior to the scheduled team meeting to be available for parent review.

Additional steps that must be completed within 45 school days of receipt of the signed consent are described in more detail below in the section titled "Eligibility."

If consent is received within 30 to 45 school working days before the end of the school year, the school will ensure that a Team meeting is scheduled so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible



no later than 14 days after the end of the school year.

### **Students Whose Home Language is not English**

The Coordinator of Special Education must ensure that communications with parents are in clear and commonly understood words. Coordinators will check ASPEN for the family's preferred language for communications to determine whether documents must be translated and if an interpreter is needed for IEP meetings. If this information is not in ASPEN, the Coordinator of Special Education consults the Home Language Survey in the student's cumulative file. Coordinators may also call families with interpreter to confirm the need for an interpreter.

When a family indicates a need for an interpreter, the Coordinator consults a list of individuals who are trained in special education procedures, programs, and services to secure an interpreter through an agency that commonly provides these services. Any interpreter used in fulfilling these requirements must be fluent in the primary language of the home and familiar with special education procedures, programs, and services. Coordinators will document the presence of interpreters at IEP meetings on the attendance sheet.

If the parents or the student are unable to read in any language or are blind or deaf, communications required by these regulations are made orally in English with the use of a foreign language interpreter, in Braille, in sign language, via TTY, or in writing, whichever is appropriate, and all such communications are documented. If the district provides notices orally or in some other mode of communication that is not written language, the district keeps written documentation (a) that it has provided such notice in an alternate manner, (b) of the content of the notice and (c) of the steps taken to ensure that the parent understands the content of the notice.

## **Eligibility**

### **Eligibility Determination**

An eligibility determination must be made by the Team of qualified professionals and parents prior to the expiration of the 45 day period from receipt of consent to evaluate. The Team deciding on eligibility must rely on a variety of assessment materials and parent input. Eligibility must not be based on lack of reading or math instruction or on English language learning needs.

The Team must use the Special Education Eligibility Flowchart to make eligibility determinations. The Team must complete this as a group at the meeting. The flowchart is a worksheet that presents guiding questions to ensure that the Team considers all requirements prior to making a determination of eligibility. The Team must consider each of the following questions:

1. Does the student have one or more the enumerated disabilities, as defined under 603 CMR 28.0(7)?

2. Is the student making effective progress in school? (For re-evaluations, would the student continue to make effective progress in school without the provided special education services?)
  - a. Teams sometimes struggle in trying to decide if a student is making effective progress and look for specific guidelines to assist in making this important decision. Effective progress, however, is not easily translated to test scores, academic achievement, social skills or other individual or specific variables, but rather is an interrelated measure. Teams, therefore, should carefully review evaluation data and make student-centered decisions on this important issue.
  - b. The Team must determine whether the student has made documented growth with or without accommodations, in knowledge and skills acquisition, including social/emotional development, the learning standards set forth in the Massachusetts Curriculum Frameworks and the curriculum of the district according to the chronological age, the developmental expectations and the individual educational potential of the child.
3. Is the lack of progress a result of the student's disability?
  - a. The law clearly states that students may not be determined eligible solely because of a need for reading or math instruction or because of limited English proficiency or social maladjustment.
4. Does the student require specially designed instruction in order to make effective progress OR does the student require related services in order to make effective progress in school?

For a student to be eligible for special education, the Team must answer, in order: YES, NO, YES, YES. In other words: The student has one or more of the enumerated disabilities; the student is not making effective progress in school (or for a re-evaluation the student would not continue to make effective progress in school without the provided special education services); the lack of progress is a result of the student's disability; and the student requires specially designed instruction and/or related services in order to make effective progress in school.

If any of the Team's answers are different from as described in the prior paragraph, the student does not qualify for special education.

### **Additional Considerations for a Finding of Specific Learning Disability**

Extra steps are required when a specific learning disability is suspected. The school must take the following steps in such cases:

- At least one Team member other than the student's teacher must complete a classroom observation of the student's academic achievement.
- The Team Evaluation Coordinator with the assistance of the school psychologist, if necessary, must complete a written report completing the required documents

SLD Component 1 SLD Component 2 SLD Component 3 SLD Classroom Observation Form

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

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

### **Additional Considerations for Students with Autism**

Whenever an evaluation indicates that a child has a disability on the autism spectrum (as defined in the Diagnostic and Statistical Manual fifth edition), the IEP Team shall consider and shall specifically address the following: the verbal and nonverbal communication needs of the child; the need to develop social interaction skills and proficiencies; the needs resulting from the child's unusual responses to sensory experiences; the needs resulting from resistance to environmental change or change in daily routines; the needs resulting from engagement in repetitive activities and stereotyped movements; the need for any positive behavioral interventions, strategies, and supports to address any behavioral difficulties resulting from autism spectrum disorder; and other needs resulting from the child's disability that impact progress in the general curriculum, including social and emotional development.

### **If the Team Finds the Student Eligible**

If the Team determines the student is eligible for special education, the Team will immediately, and within the 45 day period following receipt of consent to evaluate, develop an IEP and propose the IEP and placement to the parent. In certain circumstances, as described in 603 CMR 28.06(2)(e), the proposal of placement may be delayed.

No later than 30 days after receipt of the proposed IEP and proposed placement, the parents shall:

- accept or reject the IEP in whole or in part; request a meeting to discuss the rejected portions of the IEP or the overall adequacy of the IEP; or if mutually agreed upon, accept an amended proposal; and
- accept or reject the proposed placement.

Upon parental response to the proposed IEP and proposed placement, the school district shall implement all accepted elements of the IEP without delay.

### **If the Team Finds the Student is Not Eligible**

If the Team determines that the child is not eligible for special education, the Coordinator will record the reason for such finding, list the meeting participants, and provide written notice to the parents of their rights in accordance to federal requirements on an N2 form.

## **IEP Creation and Placement Recommendation**

### **General**

Once a child is found to be eligible, and at least annually after that, the team must develop an IEP. The team is guided by evaluation data and current classroom performance to develop goals and benchmarks and to recommend service levels. The IEP helps educators

and parents to understand the student and how best to work with that student. The IEP should describe how the student learns, how the student best demonstrates that learning, and how the school staff and student will work together to help the student learn better. It must be tailored to the individual student needs as determined through the evaluation process.

The IEP serves as a contract between the school and parent(s). It should reflect the decisions made at the team meeting that clearly communicate to parents the needs of their child, the steps the school will take to address these needs and the progress their child is expected to make during the IEP period.

Immediately following the development of the IEP, and within 45 school working days after receipt of the parent's written consent to an initial evaluation or reevaluation, the school will provide the parents with two copies of the proposed IEP and proposed placement along with the required notice.

No later than 30 days after receipt of the proposed IEP and proposed placement, the parents shall:

- accept or reject the IEP in whole or in part; request a meeting to discuss the rejected portions of the IEP or the overall adequacy of the IEP; or if mutually agreed upon, accept an amended proposal; and
- accept or reject the proposed placement.

### **Team Composition**

The following roles must be filled at Team meetings:

- Parent/guardian(s) of the student;
- The student, when appropriate;
- Not less than one general education teacher (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher;
- Related service providers who provide service to the student or who have evaluated the student; and
- A representative of the school who will facilitate the meeting and guide the Team in making decisions.
- A representative of the Local Education Agency (LEA) who has the authority to commit resources. In most cases this is the Coordinator of Special Education;
- An individual who can interpret evaluation results; and
- At the parent or agency's discretion, other individuals who have knowledge of the student.

### **FAPE and LRE**

Two primary concepts – FAPE and LRE – frame the process.

- *Free Appropriate Education (FAPE)*: A student who is eligible for special education services is entitled by federal law to receive a Free Appropriate Public Education (FAPE). FAPE ensures that all students with disabilities receive an appropriate public education at no expense to the family. FAPE differs for each student because each

student has unique needs. FAPE specifies that needed services must be provided without cost to the family. FAPE also means that students receiving special education services have access to and make meaningful progress in the general curriculum (i.e. the same curriculum as students without disabilities) and the right to be full participants in the life of the school. The student is not only entitled to access the academic portion of school, but also to participate in extracurricular and other activities sponsored by the school. Full participation means that students with disabilities are entitled to the aids and services needed to assist them in participating in all areas of school life.

- *Least Restrictive Environment (LRE)*: Federal law mandates that students with disabilities must be educated with their non-disabled peers to the maximum extent appropriate based on the student's needs. The team (including the parent) determines the placement that the student needs to provide the services on the student's IEP and the team must choose the least restrictive environment able to provide those services. This means that the student should attend the school he or she would attend if non-disabled, unless the team determines that the nature of the student's disability will not allow that student to have a successful educational experience.

### **Transition Planning**

The Individuals with Disabilities Education Act (IDEA) requires that transition planning be part of the Individual Education Program (IEP). In order for students with disabilities to realize a successful transition from high school to adult life, it is important that this process start early. Beginning no later than when the student is 14 years of age, the team must consider the student's need for transition services and document the discussion when developing an IEP. The school ensures that students are invited to, and encouraged to attend, part or all of team meetings at which transition services are discussed or proposed. Effective transition planning is based upon the student's goals and vision. IDEA requires that, beginning at age 14, planning for the transition to adult living must be part of the IEP. The student should be invited to attend team meetings. For students who may be receiving services from adult service agencies, representatives of these agencies should also be invited to the team meeting when transition is being discussed. When the student is age 16, the team discussion of Vision should include a post-school vision statement designed to reflect the individual interests, preferences, and needs of your child in adult life. Transition planning and services should be reflected in the Other Educational Needs section of the IEP and can include preparation for post-secondary education, vocational training, employment, and independent living. The team must consider the student's need for transition services and document the discussion when developing an eligible student's IEP. The discussion will be documented on the Transition Planning Form (TPF) and this form must be maintained with the IEP. Transition planning includes, but is not limited to, exploring college options, employment options, exploring additional educational opportunities, and connecting with adult service agencies that provide services for post-IEP individuals.

### **Placement**

As the Team discusses placement, the least restrictive environment will be selected as it correlates with the student's needs. To the extent possible, students with disabilities will be educated with their non-disabled peers. Teams should consider in-district settings as they relate to the student's needs. These settings include, the general education classroom, a

learning center/resource room or separate classroom. If a student's needs cannot be met within the public school setting, an out-of-district placement may be explored.

## **IEP Implementation and Ongoing Compliance**

### **Implementation of the IEP**

When the IEP has been accepted in whole, or in part, by that student's parent/guardian, UP Academy Dorchester will provide the mutually agreed upon services without delay.

The Coordinator of Special Education will ensure:

- Each teacher and provider described in the IEP is informed of his or her specific responsibilities (related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student under it);
- There is not a delay in implementation of the IEP due to lack of classroom space or personnel;
- IEP academic services and related services are delivered with fidelity and are in accordance with IEPs; and
- Instructional group sizes and age-range requirements comply with federal and state law, running reports at least quarterly.

### **Progress Reports**

Parents of students in special education receive progress reports that explain the student's progress towards meeting his/her IEP goals and whether he/she is likely to meet those goals by the end of the IEP period. The school must send these written reports at least as often as they inform parents of all students of progress in the general curriculum. This is often done every marking period at the time that report cards are sent home.

### **Amendments**

Between annual IEP meetings the district and parent may agree to make changes to a student's IEP, documented in writing, without convening a meeting of the team. This is called an amendment to the IEP. An amendment can be requested if a student is not making adequate progress on reaching his/her IEP goals, or if the accommodations and modifications are not found to be useful or adequate to the student's progress in the school's curriculum.

## **Dispute Resolution**

A student's parent or guardian has the ability to dispute a proposed evaluation, IEP, or placement. There is a continuum of options available to resolve these disputes.

These disputes can often be resolved within the school team. Individuals with questions or concerns should contact the student's case manager or the Coordinator of Special Education. However, there are other options available through the Bureau of Special Education Appeals (BSEA). The BSEA is a state body that conducts mediations, provides

advisory opinions, and holds hearings to resolve disputes among parent/guardian, school districts, private schools, and state agencies concerning eligibility, evaluation, placement, IEPs, special education services, and procedural protections for students with disabilities.

- Mediation – Mediation is a voluntary and confidential dispute resolution process available at no cost through the BSEA. Either school personnel or parents/guardians may request mediation. Within thirty (30) days of a request, the mediator will schedule a mediation session. The impartial mediator from BSEA helps schools and parents clarify issues, discuss options, and collaborate to resolve some or all of the issues. The mediator will work together with the IEP team to document the agreement in writing. All discussions during mediation are confidential and may not be used as evidence in a hearing.
- BSEA Due Process Hearing – A parent or school may request a hearing at any time on most matters concerning eligibility, evaluation, placement, or provision of services. Requests must be made in writing. Within five (5) days of receiving a hearing request, the BSEA will notify the parties of the appointment of a hearing officer and will set a hearing date. The decision of the BSEA hearing officer must be implemented immediately. It may be appealed to a court of competent jurisdiction.

## **State Testing**

The Massachusetts Comprehensive Assessment System (MCAS) is the statewide assessment program for students educated with public funds. It is taken annually by all students, including those with disabilities. The IEP Team will designate how each student will participate and, if necessary, provide an alternate assessment. Students with significant disabilities, who are unable to take the standard MCAS test, even with accommodations, must take the MCAS Alternate Assessment (MCAS-Alt). The accommodations used on MCAS must be ones that the student uses routinely and ones that are required in order for the student to participate in the statewide testing.

## **Section 504 of the Rehabilitation Act**

Section 504 of the Americans with Disabilities Act is a civil rights law that prohibits discrimination against individuals with disabilities. Section 504 ensures that a student with a disability has equal access to an education. For students with disabilities who do not require specially designed instruction but need assurance that they receive equal access to public education, a document called a 504 Plan is created to outline their specific access requirements. A 504 Plan lists accommodations related to the child's disability and required so that he or she may participate in the general classroom setting. A referral for Section 504 eligibility determination may be initiated by a parent/guardian or a professional of the school system. The school must obtain written consent from the parents/guardians before an evaluation can be started.

Examples of impairments and disabilities that may qualify for a 504 include, but are not limited to, diabetes, epilepsy, allergies, low vision, poor hearing, chronic health conditions, attention deficit hyperactive disorder (ADHD), communicable diseases, blood disorders, certain mental health conditions, obesity, birth defects, arthritis, and asthma.

### **Eligibility**

In order to be found eligible for a 504 plan, the team must answer “yes” to the following questions:

1. Does the student qualify as an individual with a disability under Section 504? Has the student's impairment been documented in writing by an appropriately licensed educational, medical and/or mental health professional?
2. Does the impairment substantially limit one or more major life activities or major bodily functions?
3. Are services or accommodations necessary to provide the student with FAPE? Does the student require accommodations and/or services to meet his or her individual education needs as adequately as students without disabilities meet their needs?

When determining what accommodations and/or services are necessary to provide FAPE, the district should not consider the impact of mitigating measures (e.g., medications, assistive technology, and/or prosthetics, etc.).

A temporary disability may provide 504 eligibility for students if the disability limits a major life activity.

## **Discipline of Students with Disabilities**

### **Students Identified as Having a Disability**

IDEA and related regulations provide eligible students with certain procedural rights and protections in the context of student discipline. In general, students with disabilities may be suspended from school, just as students without disabilities may be, for up to ten (10) school days per school year. If a student has been suspended for ten (10) days or more, schools must provide educational services that qualify as FAPE. For students with disabilities, this includes special education services and some related services.

Once a student with disabilities has been suspended for ten (10) consecutive or cumulative school days in a school year, it is considered a change of placement. Prior to any disciplinary removal of a student with disabilities that constitutes a change in placement, the school must consider whether or not the behavior that forms the basis for the student's disciplinary removal is related to his or her disability. This is called a “manifestation determination.”

### **Students Who Have Not Yet Been Identified as Having a Disability**

If, prior to the disciplinary action, the school had knowledge that the student may be a student with a disability, then the school must make all protections available to the student



until and unless the student is subsequently determined not to be eligible. The school may be considered to have prior knowledge if any of the following is true:

- The parent/guardian expressed concern in writing;
- The parent/guardian requested an evaluation; or
- District staff expressed directly to the special education director or other supervisory personnel specific concerns about a pattern of behavior demonstrated by the student.

The school may not be considered to have had prior knowledge if the parent/guardian has not consented to evaluation of the student or has refused special education services, or if an evaluation of the student has resulted in a determination of ineligibility.

If the school has no reason to consider the student disabled, and the parent/guardian requests an evaluation subsequent to the disciplinary action, the Coordinator of Special Education takes steps to conduct an expedited evaluation to determine eligibility. If the student is found eligible, then he/she receives all procedural protections subsequent to the finding of eligibility.

### **Manifestation Determination**

A Manifestation Determination Review (MDR) is a process to determine if a student's behavior was or was not a manifestation of the student's disability. This means the relevant members of the student's IEP team will meet to discuss the following two questions:

- Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?
- Was the conduct in question the direct result of the school's failure to implement the student's IEP?

If the answer to either or both of those questions is "YES," then the conduct is determined to be a manifestation of the student's disability. In that case the school may not suspend the student and the student must return to his/her existing placement unless the parent/guardian and the school agree to change the placement or special circumstances exist. If the conduct is due to failure to implement an IEP, the district must remedy those deficiencies. In either case, the school must conduct/update a functional behavioral assessment (FBA) and implement or modify a behavior intervention plan (BIP).

If the answer to both questions is "NO," that means the behavior is not a manifestation of the student's disability. The student may be disciplined in the same manner and for the same duration as a student without a disability. The student may return to the previous placement after the discipline. When removed from his/her current placement, a student has a right to FAPE to enable participation in the general education curriculum and progress toward meeting the goals set out in the student's IEP. This right exists even if the student is placed in a different setting. When removed, the school must provide, as appropriate, an FBA, a BIP, services, and modifications, designed to address the behavior so it does not reoccur.

### **Special Circumstances**

Special circumstances exist when an incident at school or a school function involves:

- the possession of weapon;

- the possession or use of illegal drugs; or
- infliction of serious bodily injury upon another person.

When special circumstances exist, the school may move a student to an Interim Alternative Education Setting (IAES) for up to 45 days without regard to whether the behavior is determined to be a manifestation of the student's disability. The team determines the IAES.

### **Right to Appeal**

- A student or a school may appeal the result of a manifestation determination.
- The school may only appeal if it believes that maintaining the current placement is substantially likely to result in injury to the child or others.
- Appeal is to the BSEA. As described earlier in this handbook, the BSEA offers both mediation and hearing processes.

## **Contact Information**

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