

# **Northern Lights Academy Cooperative #6096-52 Total Special Education System (TSES)**

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This document serves as the Total Special Education System Plan for Northern Lights Academy Cooperative #6096-52 in accordance with Minnesota Rule 3525.1100. This plan also includes an assurance for compliance with the federal requirements pertaining to districts' special education responsibilities found in United States Code, title 20, chapter 33, sections 1400 et seq., and Code of Federal Regulations, title 34, part 300. This document is a companion to the Application for Special Education Funds – Statement of Assurances (ED-01350-29).

Jessica Cook, Northern Lights Special Education Cooperative's (NLSEC) special education director, is responsible for program development, coordination, and evaluation; in-service training; and general special education supervision and administration. Northern Lights Academy #6096-52 is a joint powers cooperative district formed by the member districts of the NLSEC: Barnum, Carlton, Cloquet, Cromwell-Wright, Esko, Hermantown, Lake Superior, McGregor, Moose Lake, Proctor, Willow River and Wrenshall. Jessica Cook may be reached at Northern Lights Special Education Cooperative, [jcook@nlsec.org](mailto:jcook@nlsec.org), or (218) 655-5018, ext. 7006.

## **I. Child Study Procedures**

The district's identification system is developed according to the requirement of nondiscrimination as Northern Lights Academy Cooperative #6096-52 does not discriminate in education on the basis of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance, sexual orientation, or disability.

### **A. Identification**

Northern Lights Academy Cooperative #6096-52 is a special education district which is approved to serve students who already have an IEP. It does not serve any students who are not receiving special education services. It does not serve any students not yet enrolled in kindergarten.

If staff at the Northern Lights Academy Cooperative #6096-52 become aware of a child/student who may be eligible for intervention or special education services, information regarding and receiving services will be shared with parents/guardians and the resident district responsible for the child. NLSEC member district Referral Process for children ages Birth-PreK is outlined in their district's TSES, which can be found at [www.nlsec.org/memberdistricts/district\\_tses\\_manuals](http://www.nlsec.org/memberdistricts/district_tses_manuals).

Northern Lights Academy Cooperative #6096-52's plan for identifying a child with a specific learning disability is consistent with Minnesota Rule 3525.1341. Northern Lights Academy Cooperative #6096-52 implements its interventions consistent with that plan. Northern Lights Academy Cooperative #6096-52's plan for identifying a child with a specific learning disability is attached as *Appendix I*.

### **B. Evaluation**

Evaluation of the child and assessment of the child and family will be conducted in a manner consistent

with Code of Federal Regulations.

The team conducts an evaluation for special education purposes within a reasonable time not to exceed 30 school days from the date the district receives parental permission to conduct the evaluation or the expiration of the 14-calendar day parental response time in cases other than initial evaluation, unless a conciliation conference or hearing is requested.

Northern Lights Academy Cooperative #6096-52 is a Setting IV program so all students attending are already receiving services and all evaluations are reevaluations to be completed at least every three years. The District will not override the written refusal of a parent to consent to a re-evaluation.

### ***Evaluation Procedures***

Evaluations and reevaluations shall be conducted according to the following procedures:

- A. Northern Lights Academy Cooperative #6096-52 shall provide notice to the parents of the pupil, according to Code of Federal Regulations, title 34, sections 300.500 to 300.505, that describes any evaluation procedures the district proposes to conduct.
- B. In conducting the evaluation, Northern Lights Academy Cooperative #6096-52 shall:
  - (1) use a variety of evaluation tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that are designed to assist in determining whether the child is a pupil with a disability and the content of the pupil's individualized education program, including information related to enabling the pupil to be involved in and profess in the general curriculum, or for preschool pupils, to participate in appropriate activities;
  - (2) not use any single procedure as the sole criterion for determining whether a child is a pupil with a disability or determining an appropriate education program for the pupil; and
  - (3) use technically sound instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- C. Northern Lights Academy Cooperative #6096-52 ensures that:
  - (1) tests and other evaluation materials used to evaluate a child under this part are selected and administered so as not be discriminatory on a racial or cultural basis, and are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so;
  - (2) materials and procedures used to evaluate a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education and related services, rather than measure the child's English language skills;
  - (3) any standardized tests that are given to the child have been validated for the specific purpose for which they are used, are administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of such tests;
  - (4) the child is evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

- (5) evaluation tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil are provided;
  - (6) if an evaluation is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report;
  - (7) tests and other evaluation materials include those tailored to evaluate specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
  - (8) tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test 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; and
  - (9) in evaluating each pupil with a disability, the evaluation is sufficiently comprehensive to identify all of the pupil's special education and related service needs, whether or not commonly linked to the disability category in which the pupil has been classified.
- D. Upon completion of administration of tests and other evaluation materials, the determination of whether the child is a pupil with a disability as defined in Minnesota Statutes, section 125A.02, shall be made by a team of qualified professionals and the parent of the pupil in accordance with item E, and a copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.
- E. In making a determination of eligibility under item D, a child shall not be determined to be a pupil with a disability if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency, and the child does not otherwise meet eligibility criteria under parts 3525.1325 to 3525.1351.

***Additional requirements for evaluations and reevaluations***

- A. As part of an initial evaluation, if appropriate, and as part of any reevaluation under this part, or a reinstatement under part 3525.3100, the IEP team and other qualified professionals, as appropriate, shall:
- (1) review existing evaluation data on the pupil, including evaluations and information provided by the parents of the pupil, current classroom-based assessments and observations, and teacher and related services providers observation; and
  - (2) on the basis of the review, and input from the pupil's parents, identify what additional data, if any, are needed to determine whether the pupil has a particular category of disability, as described in Minnesota Statutes, section 125A.02, or, in case of a reevaluation of a pupil, whether the pupil continues to have such a disability, the present levels of performance and educational needs of the pupil, whether the pupil needs special education and related services, or in the case of a reevaluation of a pupil, whether the pupil continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.
- B. The district shall administer such tests and other evaluation materials as may be needed to produce the data identified by the IEP team under item A, subitem (2).

- C. Each district shall obtain informed parental consent, in accordance with subpart 1, prior to conducting any reevaluation of a pupil, except that such informed parental consent need not be obtained if the district can demonstrate that it had taken reasonable measures to obtain such consent and the pupil's parent has failed to respond.
- D. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the pupil continues to be a pupil with a disability, the district shall notify the pupil's parents of that determination and the reasons for it, and the right of such parents to request an evaluation to determine whether the pupil continues to be a pupil with a disability, and shall not be required to conduct such an evaluation unless requested to by the pupil's parents.
- E. A district shall evaluate a pupil in accordance with this part before determining that the pupil is no longer a pupil with a disability.

### ***Procedures for determining eligibility and placement***

- A. In interpreting the evaluation data for the purpose of determining if a child is a pupil with a disability under parts 3525.1325 to 3525.1351 and the educational needs of the child, the school district shall:
  - (1) draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
  - (2) ensure that the information obtained from all of the sources is documented and carefully considered.
- B. If a determination is made that a child is a pupil with a disability who needs special education and related services, an IEP must be developed for the pupil according to part 3525.2810.

### ***Evaluation report***

An evaluation report must be completed and delivered to the pupil's parents within the specified evaluation timeline. At a minimum, the evaluation report must include:

- A. a summary of all evaluation results;
- B. documentation of whether the pupil has a particular category of disability or, in the case of a reevaluation, whether the pupil continues to have such a disability;
- C. the pupil's present levels of performance and educational needs that derive from the disability;
- D. whether the child needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and
- E. whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the pupil's IEP and to participate, as appropriate, in the general curriculum.

### **C. Plan for Receiving Referrals**

Northern Lights Academy Cooperative #6096-52's plan for receiving referrals from parents, physicians, private and public programs, and health and human services agencies is to communicate information regarding evaluation and receiving services to parents/guardians and to forward the referral to the resident district responsible for the child.

## **D. Procedures for Entrance Into and Exit Out of Northern Lights Academy Cooperative programs**

Northern Lights Academy Cooperative #6096-52 requires that students are served in the least restrictive environment and that data regarding student progress (or lack of progress) be analyzed at an IEP meeting to determine all possible options within the regular education school have been exhausted prior to a referral being made for the student to enroll in the Northern Lights Academy Cooperative. When data determines a student is ready to transition back to their home school, student IEP teams, including the resident school district, plan together for this.

## **II. Method of Providing the Special Education Services for the Identified Pupils**

Northern Lights Academy Cooperative #6096-52 provides educational service alternatives to NLSEC member districts. All students with disabilities are provided the special instruction and services which are appropriate to their needs. The following is representative of Northern Lights Academy Cooperative #6096-52's method of providing the special education services for the identified pupils, sites available at which service may occur, and instruction and related services are available.

Appropriate program alternatives to meet the special education needs, goals, and objectives of a pupil are determined on an individual basis. Choice of specific program alternatives are based on the pupil's current levels of performance, pupil special education needs, goals, and objectives, and must be written in the IEP. Program alternatives are comprised of the type of services provided, the setting in which services occur, and the amount of time and frequency in which special education services occur. A pupil may receive special education services in more than one alternative based on the IEP or IFSP.

### **A. Method of providing the special education services for the identified pupils:**

- (1) Small Group Instruction
- (2) One on One Instruction
- (3) Indirect Teaching
- (4) Related Services
- (5) Self-Contained Classrooms
- (6) Accommodations and modifications (in conjunction with a method of specialized instruction)

B. Sites available at which services may occur:

(1) Northern Lights Academy Cooperative-Setting IV services for students with behavior needs that cannot be met in regular school sites.

(a) Classrooms located in the Garfield School at 302 14th St. Cloquet, MN 55720

(b) Classrooms located in the Carlton High School at 405 School Ave, Carlton, MN 55718

C. Available instruction and related services:

(1) Disability specific services

(2) Audiology

(3) Occupational Therapy

(4) Physical Therapy

(5) Developmental/Adaptive Physical Education

(6) Speech and Language Therapy

(7) Nursing Services

### III. Administration and Management Plan.

Northern Lights Academy Cooperative #6096-52 utilizes the following administration and management plan to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils:

A. The following table illustrates the organization of administration and management to assure effective and efficient results of child study procedures and method of providing special education services for the identified pupils:

<b>Staff Name and Title</b>	<b>Contact Information (phone/email/ mailing address/office location)</b>	<b>Brief Description of Staff Responsibilities relating to child study procedures and method of providing special education services</b>
Jessica Cook, Special Education Director	Northern Lights Special Education Cooperative (NLSEC)  16 East Hwy 61; PO Box 40 Esko, MN 55733  218-655-5018 ext 7006  <a href="mailto:jcook@nlsec.org">jcook@nlsec.org</a>	<ul style="list-style-type: none"><li>▪ Provide support to District administration and staff</li><li>▪ Oversee trainings for special education staff</li><li>▪ Supervise NLSEC staff</li></ul>
Barb Mackey, Assistant Special	Northern Lights Academy	

Education Director	Cooperative (NLAC) 302 14 <sup>th</sup> St., Cloquet, MN 55720 218-878-3060 ext 8000 <a href="mailto:bmackey@nlacoop.org">bmackey@nlacoop.org</a>	<ul style="list-style-type: none"> <li>▪ Responsible for the overall education of all students within the building</li> <li>▪ Oversee trainings for NLAC staff</li> <li>▪ Supervise NLAC staff</li> </ul>
Emily Thompson, Special Education Coordinator	Northern Lights Special Education Cooperative (NLSEC) 16 East Hwy 61; PO Box 40 Esko, MN 55733 218-655-5018 ext 7036 <a href="mailto:ethompson@nlsec.org">ethompson@nlsec.org</a>	<ul style="list-style-type: none"> <li>▪ Attend school aged Child Study Team meetings ensuring that all special education requirements are implemented</li> <li>▪ Provide District wide support to classrooms and families</li> <li>▪ Provide technical support to District special education staff</li> </ul>
Laura Wieck, Special Education Coordinator	Northern Lights Special Education Cooperative (NLSEC) 16 East Hwy 61; PO Box 40 Esko, MN 55733 218-655-5018 ext 7012 <a href="mailto:lwieck@nlsec.org">lwieck@nlsec.org</a>	<ul style="list-style-type: none"> <li>▪ Attend school aged Child Study Team meetings ensuring that all special education requirements are implemented</li> <li>▪ Provide District wide support to classrooms and families</li> <li>▪ Provide technical support to District special education staff</li> </ul>
Michelle Foshay, Special Education Coordinator	Northern Lights Special Education Cooperative (NLSEC) 16 East Hwy 61; PO Box 40 Esko, MN 55733 218-655-5018 ext 7023 <a href="mailto:mfoshay@nlsec.org">mfoshay@nlsec.org</a>	<ul style="list-style-type: none"> <li>▪ Attend school aged Child Study Team meetings ensuring that all special education requirements are implemented</li> <li>▪ Provide District wide support to classrooms and families</li> <li>▪ Provide technical support to District special education staff</li> </ul>
Mary Margaret Mathers, Special Education Coordinator	Northern Lights Special Education Cooperative (NLSEC) 16 East Hwy 61; PO Box 40 Esko, MN 55733 218-655-5018 ext 7042 <a href="mailto:mmathers@nlsec.org">mmathers@nlsec.org</a>	<ul style="list-style-type: none"> <li>▪ Attend school aged Child Study Team meetings ensuring that all special education requirements are implemented</li> <li>▪ Provide District wide support to classrooms and families</li> <li>▪ Provide technical support to District special education staff</li> </ul>

B. Due Process assurances available to parents: Northern Lights Academy Cooperative #6096-52 has appropriate and proper due process procedures in place to assure effective and efficient results of

child study procedures and method of providing special education services for the identified pupils, including alternative dispute resolution and due process hearings. *A description of these processes are as follows:*

- (1) Prior written notice to a) inform the parent that except for the initial placement of a child in special education, the school district will proceed with its proposal for the child's placement or for providing special education services unless the child's parent notifies the district of an objection within 14 days of when the district sends the prior written notice to the parent; and b) state that a parent who objects to a proposal or refusal in the prior written notice may request a conciliation conference or another alternative dispute resolution procedure.
- (2) Northern Lights Academy Cooperative #6096-52 will not proceed with the initial evaluation of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent. A district may not override the written refusal of a parent to consent to an initial evaluation or reevaluation.
- (3) A parent, after consulting with health care, education, or other professional providers, may agree or disagree to provide the parent's child with sympathomimetic medications unless medical, dental, mental and other health services are necessary, in the professional's judgment, that the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.
- (4) Parties are encouraged to resolve disputes over the identification, evaluation, educational placement, manifestation determination, interim alternative educational placement, or the provision of a free appropriate public education to a child with a disability through conciliation, mediation, facilitated team meetings, or other alternative process. All dispute resolution options are voluntary on the part of the parent and must not be used to deny or delay the right to a due process hearing. All dispute resolution processes are provided at no cost to the parent.
- (5) Conciliation Conference: a parent has the opportunity to meet with appropriate district staff in at least one conciliation conference if the parent objects to any proposal of which the parent receives prior written notice. Northern Lights Academy Cooperative #6096-52 holds a conciliation conference within ten calendar days from the date the district receives a parent's objection to a proposal or refusal in the prior written notice. All discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five school days after the final conciliation conference, the district must prepare and provide to the parent a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible in evidence in any subsequent proceeding.
- (6) In addition to offering at least one conciliation conference, Northern Lights Academy Cooperative #6096-52 informs parents of other dispute resolution processes, including at least medication and facilitated team meetings. The fact that an alternative dispute resolution process was used is admissible in evidence at any subsequent proceeding. State-provided mediators and team meeting facilitators shall not be subpoenaed to testify at a due process hearing or civil action under special education law nor are any records of mediators or state-provided team meeting facilitators accessible to the parties.
- (7) Descriptions of the mediation process, facilitated team meetings, state complaint, and impartial due process hearings may be found in Northern Lights Academy Cooperative #6096-52's Procedure Safeguard Notice, attached as *Appendix II*.



#### IV. Interagency Agreements the District has Entered

The Northern Lights Academy #6096-52 is a joint powers cooperative district shared between the member districts of the Northern Lights Special Education Cooperative, which have entered in the following interagency agreements or joint powers board agreements for eligible children, ages Birth to 21, to establish agency responsibility that assures that coordinated interagency services are coordinated, provided, and paid for, and that payment is facilitated from public and private sources:

Name of Agency	Terms of Agreement	Agreement Termination/ Renewal Date	Comments
Northern Lights Interagency Council	Northern Lights Interagency Council: Local Interagency Agreement and By-laws	Specified in terms of agreement	

Minnesota System of Interagency Coordination: [Local Interagency Agreement](http://www.nlsec.org). Can be found on [www.nlsec.org](http://www.nlsec.org) > Interagency > Northern Lights Interagency Council > Northern Lights Interagency Council Agreement.

#### VI. Special Education Advisory Council (SEAC)

In order to increase the involvement of parents of children with disabilities in district policy making and decision making, Northern Lights Academy #6096-52 has a special education advisory council in cooperation with other NLSEC member districts.

Northern Lights Academy Cooperative #6096-52's SEAC is established in cooperation with other NLSEC member districts who are members of the same special education cooperative. The SEAC is a subgroup of the Northern Lights Interagency Council (NLIC), where at least half of the members are parents of students with a disability. The SEAC meets 4 times per year in conjunction with the NLIC. Operational procedures are linked at: [Northern Lights Interagency Council By-Laws](https://www.nlsec.org/interagency/nlic/nlicbylaws/) or <https://www.nlsec.org/interagency/nlic/nlicbylaws/>

#### VII. Assurances

Code of Federal Regulations, section 300.201: Consistency with State policies. Northern Lights Academy Cooperative #6096-52, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under sections 300.101 through 300.163, and sections 300.165 through 300.174. (Authority: 20 U.S.C. § 1413(a)(1)).

Yes: Assurance given.

## **Appendices**

### **Northern Lights Academy Cooperative #6096-52**

<b>Appendix I:</b>	<b>Specific Learning Disability Checklist</b>
<b>Appendix II:</b>	<b>Procedural Safeguards Parts B</b>
<b>Appendix III:</b>	<b>Restrictive Procedures Plan</b>
<b>Appendix IV:</b>	<b>Independent Educational Evaluation Criteria</b>
<b>Appendix V:</b>	<b>Consent Process for Third Party Billing</b>



## Specific Learning Disability (SLD)

Student Name: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Building: \_\_\_\_\_

Reviewer Name: \_\_\_\_\_

Date of Evaluation Report: \_\_\_\_\_

Eligible: \_\_\_\_ Yes \_\_\_\_ No

\_\_\_\_ Evaluation (Must meet initial criteria)

\_\_\_\_ Reevaluation

**Information about each item must be sought from the parent and included as part of the evaluation data. The evaluation data must confirm that the disabling effects of the child's disability occur in a variety of settings. The child must receive two interventions prior to evaluation unless the parent requests an evaluation or the team waives the requirement due to urgency. Based on information in the Evaluation Report and the student file, a pupil has a specific learning disability and is in need of special education and related services when the pupil meets the criteria in A, B, and C OR A, B, and D below.**

### A. Documentation of Inadequate Achievement

The child does not achieve adequately in one or more of the following areas in response to appropriate classroom instruction.

\_\_\_\_ Oral Expression

\_\_\_\_ Reading Comprehension

\_\_\_\_ Listening Comprehension

\_\_\_\_ Reading Fluency

\_\_\_\_ Written Expression

\_\_\_\_ Mathematics Calculation

\_\_\_\_ Basic Reading Skills

\_\_\_\_ Mathematical Problem Solving

**AND**

\_\_\_\_ The child does not make adequate progress to meet age or state-approved grade-level standards in one or more of the areas listed above when using a process based on the child's response to scientific, research-based intervention;

**OR**

\_\_\_\_\_The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability (SLD).

**AND**

\_\_\_\_\_Documentation to support this finding must be both representative of the pupil's curriculum and useful for developing instructional goals and objectives. Documentation includes evidence of low achievement from the following sources, when available:

- \_\_\_\_\_Cumulative record reviews
- \_\_\_\_\_Class work samples
- \_\_\_\_\_Anecdotal teacher records
- \_\_\_\_\_Statewide and district-wide assessments
- \_\_\_\_\_Formal, diagnostic, and informal tests
- \_\_\_\_\_Results from targeted support programs in general education
- \_\_\_\_\_Curriculum based evaluation results

## **B. Information Processing**

The child has a disorder in one or more of the basic psychological processes, which includes an information processing condition that is manifested in a variety of setting by behaviors such as inadequate:

- \_\_\_\_\_Acquisition of information
- \_\_\_\_\_Organization
- \_\_\_\_\_Planning and sequencing
- \_\_\_\_\_Working memory, including verbal, visual, or spatial
- \_\_\_\_\_Visual and auditory processing
- \_\_\_\_\_Speed of processing
- \_\_\_\_\_Verbal and nonverbal expression
- \_\_\_\_\_Transfer of information
- \_\_\_\_\_Motor control for written tasks (pencil and paper assignments, drawing, and copying)
- \_\_\_\_\_Other: \_\_\_\_\_

## C. Severe Discrepancy

The child demonstrates a severe discrepancy between general intellectual ability and achievement in at least one of the identified areas of achievement. The demonstration of a severe discrepancy shall not be based solely on the use of standardized tests. The instruments used to assess the child's general intellectual ability and achievement must be individually administered and interpreted by an appropriately licensed person using standardized procedures. For initial placement, the severe discrepancy must be equal to or greater than 1.75 standard deviations below the mean on a distribution of regression scores for the general population at the student's chronological age.

General Intellectual Ability Assessment Measure: \_\_\_\_\_

Overall Composite Score: \_\_\_\_\_ Regression Score: \_\_\_\_\_

Achievement Measure: \_\_\_\_\_

Cluster Area	Composite Score
Oral Expression	_____
Listening Comprehension	_____
Written Expression	_____
Basic Reading Skills	_____
Reading Fluency Skills	_____
Reading Comprehension	_____
Mathematical Calculation	_____
Mathematical Problem Solving	_____

## D. Inadequate rate of progress in response to scientific research-based intervention (SRBI)

The child demonstrates an inadequate rate of progress in response to intensive SBRI and the following components are documented:

\_\_\_\_\_ Rate of progress is measured over at least seven (7) school weeks on a minimum of 12 data points;

\_\_\_\_\_ Rate of improvement is minimal and continued intervention will not likely results in reaching age or state-approved grade-level standards;

\_\_\_\_\_ Progress will not likely be maintained when instructional supports are removed;

\_\_\_\_\_ Level of performance in repeated assessment of achievement falls below the child's age or state-approved grade-level standards; and

\_\_\_\_\_ Level of achievement is at or below the 5<sup>th</sup> percentile on one or more valid and reliable achievement tests using either state or national comparisons. Local comparison data that is valid and reliable may be used in addition to either state or national data, but if it differs from either state or national data, the group must provide a rationale to explain the difference.

### **Review of Eligibility Determination**

To determine compliance with eligibility determination, **one of the following must be checked.**

\_\_\_\_\_ The documentation supports the team decision.

\_\_\_\_\_ The documentation does not support the team decision.

For complete information regarding disability criteria requirements, refer to Minnesota Rule 3525.1341.



## **Part B Notice of Procedural Safeguards Parental Rights for Public School Special Education Students**

The material contained in this document is intended to provide general information and guidance regarding special education rights and procedural safeguards afforded to parents of children age 3 through 21 under state and federal law. This document explains a selection of some of the rights and procedural safeguards provided to parents under the Individuals with Disabilities Education Act (IDEA), the implementing regulations at 34 C.F.R. Part 300, and applicable Minnesota laws and regulations; it is not a complete list or explanation of those rights. This notice is not a substitute for consulting with a licensed attorney regarding your specific legal situation. This document does not purport to include a complete rendition of applicable state and federal law, and the law may have changed since this document was issued.

### **Introduction**

This document provides an overview of parental special education rights, sometimes called procedural safeguards. These same procedural safeguards are also available for students with disabilities who have reached the age of 18.

This Notice of Procedural Safeguards must be given to you at least one time per year. It must also be given to you:

1. the first time your child is referred for a special education evaluation or if you request an evaluation;
2. the first time you file a complaint with the Minnesota Department of Education (MDE) in a school year;
3. the first time you or the district requests a due process hearing in a school year;
4. on the date the district decides to change the placement of your student by removing the student from school for a violation of the district discipline policy; or
5. upon your request.

### **Prior Written Notice**

The district must provide you with prior written notice each time it proposes to initiate or change, or refuses to initiate or change:

- the identification of your child;
- the evaluation and educational placement of your child;

- the provision of a free appropriate public education (FAPE) to your child; or
- when you revoke consent for services for your child in writing and before the district stops providing special education and related services.

This written notice must include:

1. A description of the action proposed or refused by the district;
2. An explanation of why the district proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for its proposal or refusal;
4. A statement that you, as parents of a child with a disability, have protection under these procedural safeguards and information about how you can get a copy of the brochure describing the procedural safeguards;
5. Sources for you to contact to obtain assistance in understanding these procedural safeguards;
6. A description of other options the IEP team considered and the reasons why those options were rejected; and
7. A description of other factors relevant to the district's proposal or refusal.

In addition to federal requirements, prior written notice must inform you that, except for the initial placement of your child in special education, the school district will proceed with its proposal for your child's placement, or for providing special education services, unless you notify the district of an objection within 14 days of when the district sent you the prior written notice. The district must also provide you with a copy of the proposed IEP whenever the district proposes to initiate or change the content of the IEP.

The prior written notice must also state that, if you object to a proposal or refusal in the prior written notice, you must have an opportunity for a conciliation conference, and the school district must inform you of other alternative dispute resolution procedures, including mediation and facilitated IEP team meetings, under Minnesota Statutes, section 125A.091, Subdivisions 7-9.

## For More Information

If you need help understanding any of your procedural rights or anything about your child's education, please contact your district's special education director or the person listed below. This notice must be provided in your native language or other mode of communication you may be using. If your mode of communication is not a written language, the district must take steps to translate this notice orally or by other means. The district must ensure that you understand the content of this notice and maintain written evidence that this notice was provided to you in an understandable mode of communication and that you understood the content of this notice.



If you have any questions or would like further information, please contact:

Name \_\_\_\_\_

Phone \_\_\_\_\_

For further information, you may contact one of the following organizations:

ARC Minnesota (advocacy for persons with developmental disabilities)

[www.arcminnesota.org](http://www.arcminnesota.org)

952-920-0855

1-833-450-1494

Minnesota Association for Children's Mental Health

[www.macmh.org](http://www.macmh.org)

651-644-7333

1-800-528-4511

Minnesota Disability Law Center

[www.mndlc.org](http://www.mndlc.org)

612-334-5970 (Twin Cities Metro)

1-800-292-4150 (Greater Minnesota)

612-332-4668 (TTY)

Minnesota Department of Education

[www.education.gov](http://www.education.gov)

651-582-8689

651-582-8201 (TTY)

PACER (Parent Advocacy Coalition for Educational Rights)

[www.pacer.org](http://www.pacer.org)

952-838-9000

1-800-53-PACER,

952-838-0190 (TTY)

SMRLS' Education Law Advocacy Project (Serves families with low-income in 33 southern MN counties)

[www.smrls.org](http://www.smrls.org)

1-877-696-652

## Electronic Mail

If your school district gives parents the choice to receive notices by email, you can choose to receive your prior written notice, procedural safeguards notice, or notices related to a due process complaint via email.

## Parental Consent

### Definition of Consent

Consent means that you have been fully informed of all information relevant to the activity for which your consent is sought, in your native language, or through another mode of communication. In order to consent you must understand and agree in writing to the carrying out of the activity for which your consent is sought. This written consent must list any records that will be released and to whom.

### Revocation of Consent

Consent is voluntary and may be revoked in writing at any time. However, revocation of consent is not retroactive; meaning revocation of consent does not negate an action that has occurred after the consent was given and before the consent was revoked.

## **When the District Must Obtain Your Consent**

### ***A. Initial Evaluation***

The district must obtain your written and informed consent before conducting its initial evaluation of your child. You or a district can initiate a request for an initial evaluation. If you do not respond to a request for consent or if you refuse to provide consent for an initial evaluation, the district cannot override your refusal to provide consent. An initial evaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation, unless a conciliation conference or hearing is requested.

A district will not be found in violation of meeting its child find obligation or its obligations to conduct evaluations and reevaluations if you refuse to consent to or fail to respond to a request for consent for an initial evaluation.

If you consent to an initial evaluation, this consent cannot be construed as being consent for the initial provision of special education and related services.

### ***B. Initial Placement and Provision of Special Education Services and Related Services***

The district must obtain your written consent before proceeding with the initial placement of your child in a special education program and the initial provision of special education services and related services to your child determined to be a child with a disability.

If you do not respond to a request for consent, or if you refuse to consent to the initial provision of special education and related services to your child, the district may not override your written refusal.

If you refuse to provide consent for the initial provision of special education and related services, or you fail to respond to a request to provide consent for the initial provision of special education and related services, the district will not be considered in violation for failure to provide your child with special education and related services for which the district requested consent.

### ***C. Reevaluations***

Your consent is required before a district conducts a reevaluation of your child. If you refuse consent to a reevaluation, the district may not override your written refusal. A reevaluation shall be conducted within 30 school days from the date the district receives your permission to conduct the evaluation or within 30 days from the expiration of the 14 calendar day time period during which you can object to the district's proposed action.

### ***D. Transition Services***

Your consent is required before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

## **When Your Consent is not Required**

Except for an initial evaluation and the initial placement and provision of special education and related services, if you do not notify the district of your objection within 14 days of when the district sends the notice of the district's proposal to you, the district's proposal goes into effect even without your consent.

Additionally, your consent is not required for a district to review existing data in your child's educational file as part of an evaluation or a reevaluation.

Your consent is also not required for the district to administer a test or other evaluation that is given to all children, unless consent is required from parents of all children.

## **Parent's Right to Object and Right to a Conciliation Conference**

You have a right to object to any action the district proposes within 14 calendar days of when the district sends you the prior written notice of their proposal. If you object to the district's proposal, you have the right to request a conciliation conference, mediation, facilitated IEP team meeting or a due process hearing. Within ten calendar days from the date the district receives notice of your objection to its proposal or refusal in the district's prior written notice, the district will ask you to attend a conciliation conference.

Except as provided under Minnesota Statutes, section 125A.091, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five days after the final conciliation conference, the district must prepare and provide to you a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible evidence in any subsequent proceeding.

You and the district may also agree to use mediation or a facilitated individualized education program (IEP) team meeting to resolve your disagreement. You or the district can also request a due process hearing (see section about Impartial Due Process Hearings later in this document). The district must continue to provide an appropriate education to your child during the proceedings of a due process hearing.

## **Confidentiality and Personally Identifiable Information**

Personally identifiable information is information that includes, but is not limited to, a student's name, the name of the student's parent or other family members, the address of the student or student's family, a personal identifier, such as the student's Social Security number, student number, or biometric record, another indirect identifier, such as the student's date of birth, place of birth, a mother's maiden name, other information that, alone or in combination, is linked to or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty, or 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.

Districts and MDE must protect the confidentiality of any personally identifiable data, information, and records they collect, maintain, disclose and destroy.

Generally, your written consent is required before a district may disclose personally identifiable information from your child's educational record with anyone other than officials of participating agencies collecting or using the information under the Individuals with Disabilities Education Act (IDEA) or for any purpose other than meeting a requirement of that law.

When your consent is not required to share personally identifiable information. Your consent, or the consent of an eligible student (age 18 or older), is not required before personally identifiable information contained in education records is released to officials of a school district or the state department of education for meeting IDEA requirements.

Your child's educational records, including disciplinary records, can be transferred without your consent to officials of another school, district, or postsecondary institution if your child seeks to enroll in or attend the school or institution or a school in that district.

Disclosures made without your consent must be authorized under the Family Educational Rights and Privacy Act (FERPA). Please refer to 34 C.F.R. Part 99 for additional information on consent requirements concerning data privacy under federal law.

## Directory Information

Directory information can be shared without your consent. This type of information is data contained in an education record of your child that would not generally be considered harmful or an invasion of privacy if disclosed.

Directory information includes, but is not limited to, a student's address, telephone number, email address, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in official activities and sports, weight and height of athletic team members, degrees, honors, and awards received, the most recent educational agency or institution attended, and a student ID number, user ID, or other unique personal identifier used for accessing or communicating electronically if certain criteria are met. Directory information does not include a student's Social Security number or a student ID number not used in connection with accessing or communicating electronically as provided under federal law.

Districts must give you the option to refuse to let the district designate any or all data about your child as directory information. This notice can be given to you by any means reasonably likely to inform you or an eligible student of this right. If you do not refuse to release the above information as directory information, that information is considered public data and can be shared without your consent.

Data about you (meaning parents) is private data but can be treated as directory information if the same procedures that are used by a district to designate student data as directory information are followed.

## Written Annual Notice Relating To Third Party Billing For Iep Health-Related Services

Before billing Medical Assistance or MinnesotaCare for health-related services the first time, and each year, the district must inform you in writing that:

1. The district will share data related to your child and health-related services on your child's IEP with the Minnesota Department of Human Services to determine if your child is covered by Medical Assistance or MinnesotaCare and whether those services may be billed to Medical Assistance or MinnesotaCare.
2. Before billing Medical Assistance or MinnesotaCare for health-related services the first time, the district must obtain your consent, including specifying the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided), the purpose of the disclosure, the agency to which the disclosure may be made (i.e. the Department of Human Services) and which specifies that you understand and agree that the school district may access your (or your child's) public benefits or insurance to pay for health-related services.
3. The district will bill Medical Assistance or MinnesotaCare for the health-related services on your child's IEP.
4. The district may not require you to sign up for or enroll in Medical Assistance or MinnesotaCare or other insurance programs in order for your child to receive special education services.
5. The district may not require you to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for health services provided, but may pay the cost that you otherwise would be required to pay.
6. The district may not use your child's benefits under Medical Assistance or MinnesotaCare if that use would: decrease available lifetime coverage or any other insured benefit; result in your family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time your child is in school; increase your premiums or lead to the discontinuation of benefits or insurance; or risk your loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
7. You have the right to receive a copy of education records the district shares with any third party when seeking reimbursement for IEP health-related services.

You have the right to stop your consent for disclosure of your child's education records to a third party, including the Department of Human Services, at any time. If you stop consent, the district may no longer share your child's education records to bill a third party for IEP health-related services. You can withdraw your consent at any time, and your child's IEP services will not change or stop.

## Independent Educational Evaluations

An independent educational evaluation (IEE) is an evaluation by a qualified person(s) who is not an employee of your district. You may ask for an IEE at school district expense if you disagree with the district's evaluation. A hearing officer may also order an independent educational evaluation of your child at school district expense during a due process hearing.

Upon request for an IEE, the district must give you information regarding its criteria for selection of an independent examiner and information about where an independent education evaluation may be obtained.

If you request an IEE, the district must, without delay, ensure that it is provided at public expense or request a hearing to determine the appropriateness of its evaluation. If the district goes to hearing and the hearing officer determines the district's evaluation is appropriate, you still have the right to an independent evaluation, but not at public expense.

If you obtain an IEE, the results of the evaluation must be considered by the IEP team and may be presented as evidence at a due process hearing regarding your child.

## **Education Records**

### **Definition of an Education Record**

Under federal law an education record means those records that are directly related to a student and that are maintained by the department or the district.

### **Your Access to Records**

If you want to look at your child's education records, the district must give you access to those records for your review. Education records include most of the information about your child that is held by the school. However, information held solely by your child's teacher for his or her own instructional use may not be included in the education records.

The district must allow you to review the records without unnecessary delay, and before any meeting regarding an IEP, or any hearing or resolution session about your child. In addition, the district must comply with your request to review your child's education records immediately, if possible, or within 10 days of the date of the request (excluding Saturdays, Sundays and legal holidays), if immediate compliance is not possible.

Your right to inspect and review records includes the right to:

1. An explanation or interpretation from the district of your child's records upon request;
2. Have your representative inspect and review the records on your behalf;
3. Request that the district provide copies of your child's educational records to you; and
4. Review your child's records as often as you wish in accordance with state law. State law provides that if you have been shown private data and have been informed of its meaning, that data does not need to be disclosed to you for a period of 6 months unless a dispute or action is pending or new information is created or collected.

### **Transfer of Rights**

Your rights regarding accessing your child's education records generally transfer to your child at age 18. Notice must be provided to you and your child regarding this transfer of rights.

## **Records on More Than One Child**

If any education record includes information on more than one child, you have the right to inspect and review only information relating to your child. You can seek consent to review and inspect education records that include information about children in addition to your own, but those parents of those children have a right to refuse your request for consent.

## **List of Types and Locations of Information**

Upon your request, the district and the department must provide you with a list of the types and locations of education records they collect, maintain or use.

## **Record of Access by Others**

The district must keep a record of each request for access to, and each disclosure of, personally identifiable information in your child's education records. This record of access must include the name of the individual who made the request or received personally identifiable information from your child's education records, the date access was given and the purpose of the disclosure or the individual's legitimate interest in the information.

## **Consent to Release Records**

Generally, your consent is required before personally identifiable information is released to unauthorized individuals or agencies. The consent must be in writing and must specify the individuals or agencies authorized to receive the information; the nature of the information to be disclosed; the purpose for which the information may be used; and a reasonable expiration date for the authorization to release information. Upon request, the district must provide you with a copy of records it discloses after you have given this consent.

The district may not disclose information contained in your child's IEP, including diagnosis and treatment information, to a health plan company without your signed and dated consent.

## **Fees for Searching, Retrieving and Copying Records**

The district may not charge a fee to search or retrieve records. However, if you request copies, the district may charge a reasonable fee for the copies, unless charging that fee would prevent you from exercising your right to inspect and review the education records because you cannot afford to pay it.

## **Amendment of Records at Parent's Request**

If you believe that information in your child's records is inaccurate, misleading, incomplete or in violation of your child's privacy or other rights, you may request in writing that the district amend or remove the information.

The district must decide within a reasonable time whether it will amend the records. If the district decides not to amend the records, it must inform you that you have the right to a hearing to challenge the district's decision. If, as a result of that hearing, the district decides that the information is not inaccurate, misleading, or otherwise in

violation of your child's privacy right, it must inform you that you have the right to include a statement of your comments and disagreements alongside the challenged information in your child's education records. A hearing to challenge information in education records must be conducted according to the procedures for such hearings under FERPA.

## **Transfer of Records**

Minnesota Statutes require that a district, a charter school, or a nonpublic school transfer a student's educational records, including disciplinary records, from a school a student is transferring from to a school in which a student is enrolling within 10 business days of a request.

## **Destruction of Records**

The district must inform you when personally identifiable information is no longer needed in order to provide education services to your child. That information must be destroyed at your request. However, the school may retain a permanent record of your child's name, address, phone number, grades, attendance records, classes attended, grade level completed and year completed.

Under federal law, destruction means the physical removal of personal identifiers from information so that the information is no longer personally identifiable. Thus, the student's record does not need to be physically destroyed to comply with your request to destroy special education related records. Districts can appropriately comply with this requirement by removing personally identifiable information from the student's records. The choice of destruction method generally lies with the school district.

The district shall not destroy any education records if there is an outstanding request to inspect or review the records.

Despite your request to destroy records a district can keep certain records necessary to comply with the General Education Provision Act (GEPA), which requires that recipients of federal funds keep records related to the use of those funds. You may want to maintain certain special education records about your child for documentation purposes in the future, such as for applying for SSI benefits.

## **Mediation**

Mediation is a free, voluntary process to help resolve disputes. You or your district may request mediation at no charge from the Minnesota Department of Education's Special Education Alternative Dispute Resolution program at 651-582-8689. Mediation uses a neutral third party trained in dispute resolution techniques. Mediation may not be used to deny or delay your right to a due process hearing. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation.

If you and the district resolve all or a portion of the dispute or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by both you and the district and that both parties receive a copy of the document. The written resolution or agreement shall state



that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding on both you and the district and is enforceable in state or federal district court. You or the district can request another mediation to resolve a dispute over implementing the mediation agreement, if needed.

## **Filing a Written Special Education State Complaint**

Any organization or individual may file a complaint with the Minnesota Department of Education (MDE). Complaints sent to MDE must:

1. Be in writing and be signed by the individual or organization filing the complaint;
2. Allege violations of state or federal special education law or rule;
3. State the facts upon which the allegation is based;
4. Include the name, address and telephone number of the person or organization making the complaint;
5. Include the name and address of the residence of the child and the name of the school the child is attending;
6. A description of the nature of the child's problem; including facts relating to the problem;
7. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed; and
8. Be forwarded to the public agency providing services to the child at the same time the complaint is sent to MDE.

The complaint must be sent to:

Minnesota Department Education  
Division of Assistance and Compliance  
Due Process Supervisor  
400 NE Stinson Blvd  
Minneapolis, MN 55413  
Phone: 651.582.8689/Fax 651.582.8725

The complaint must be received by MDE no later than one year after the alleged violation occurred. MDE will issue a written decision within 60 days, unless exceptional circumstances require a longer time or you or the district agree to extend the time to participate in mediation. The final complaint decision may be appealed to the Minnesota Court of Appeals by you (the parent) or the school district injured-in-fact by the decision within 60 days of receiving notice of the final decision.

## **Impartial Due Process Hearing**

Both you and the district have a right to file a due process complaint and request an impartial due process hearing in writing within two years of the date you or the agency knew or should have known about the alleged action that forms the basis of the due process complaint.

A due process complaint can be filed regarding a proposal or refusal to initiate or change a child's evaluation, IEP, educational placement, or to provide FAPE.

A due process complaint may address any matter related to the identification, evaluation, educational placement, manifestation determination or provision of a free and appropriate public education of your child. Within 15 days of receiving notice of your due process complaint, and prior to the due process hearing, the school district must arrange for a resolution meeting with you and the relevant members of the IEP team who have knowledge of the facts alleged in the due process complaint.

The purpose of this meeting is for you to discuss the due process complaint, and the facts that form the basis of the due process complaint, and to allow the school district an opportunity to resolve the dispute that is the basis for the due process complaint.

The resolution meeting need not be held if you and the school district agree in writing to waive the meeting or agree to mediation. A resolution meeting is also not required to be held when the district is the filing party.

If the matter is not resolved within 30 days of receipt of the due process complaint, the hearing timelines begin.

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made, and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

## Loss of Right to a Due Process Hearing

**NOTE:** Due to an interpretation of state law by the 8th Circuit Court of Appeals, if your child changes school districts and you do not file a due process complaint before your child enrolls in a new district, you may lose the right to have a due process hearing about any special education issues that arose in the previous district. You do still have a right to file a due process complaint about special educational issues that may arise in the new district where your child is attending.

## Procedures for Initiation of a Due Process Hearing

Upon filing a written due process complaint, the district must give you a copy of this procedural safeguard notice and a copy of your rights at hearing. If you or the district file a due process complaint, the other party must be provided with a copy of the complaint and submit the complaint to MDE. Once it receives the request, MDE must give a copy of the procedural safeguards notice to you. All written requests must include:

1. The name of your child;
2. The address of your child;
3. The name of the school your child is attending;
4. A description of the problem(s), including your view of the facts; and
5. A proposed resolution of the problem to the extent known and available to you at the time.

MDE maintains a list of qualified hearing officers. Upon receipt of a written due process complaint, MDE will appoint a hearing officer from that list to conduct the hearing. Below are a few of your rights at hearing. This is not a complete list of rights.

Both you and the district have the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. Present evidence and confront, cross-examine and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed at least five business days before the hearing, including evaluation data and recommendations based on that data; and
4. Receive a free copy of the hearing transcript or electronic recording of findings of fact and decisions.

As a parent, you, specifically, have the right to:

1. Have your child, who is the subject of the hearing, present;
2. Open the hearing to the public; and
3. Have the record or transcript of the hearing and the hearing officer's findings of fact, conclusions of law and decisions made provided to you at no cost.

## **Responding to a Due Process Complaint**

If you file a due process complaint and you did not previously receive a prior written notice from the district about the subject matter of the complaint, the district must send you a written explanation of why the district refused to take the action raised in the complaint within 10 days of receiving your complaint. This explanation must include a description of other options considered by the IEP team, why those options were rejected, a description of each evaluation procedure, assessment, record, or report that the district used as the basis for the proposed or refused action, and a description of the factors relevant to the district's proposal or refusal decision.

The district can assert that the due process complaint does not meet the requirements under state law. A due process complaint is considered sufficient unless the party who received the request notifies the hearing officer in writing within 15 days of receiving the request that they believe the request does not meet statutory requirements. The hearing officer must determine whether the due process complaint meets statutory requirements within five days of receiving the complaint and notify the parties.

Upon receiving your due process complaint, the district must also send you a written response that addresses the issues you raised in the complaint within 10 days of receiving the request.

## **Disclosure of Additional Evidence before a Hearing**

A prehearing conference must be held within five business days of the date the commissioner appoints a hearing officer. This conference can be held in person, at a location within the district, or by telephone. At least five business days before a hearing, you and the district must disclose to each other all evaluations of your child

completed by that date and recommendations based on those evaluations that are intended to be used at the hearing. A hearing officer may refuse to allow you to introduce any undisclosed evaluations or recommendations at the hearing without consent of the other party.

## **The Hearing Decision**

A hearing decision must be issued and provided to each party within 45 calendar days, or within an appropriately extended time period, upon the expiration of the 30-day resolution period after the due process complaint was received by the state agency. A hearing officer may extend the time beyond the 45-day period if requested by either party for good cause shown on the record. A hearing officer must conduct oral arguments in a hearing at a time and place that is reasonably convenient to you and your child. A hearing officer's decision on whether your child received FAPE must be based on evidence and arguments that directly relate to FAPE. The hearing decision is final unless you or the district files a civil action. A hearing officer lacks the authority to amend a decision except for clerical and mathematical errors.

## **Separate Due Process Complaint**

You have the right to file a separate due process complaint on an issue separate from a due process complaint already filed.

## **Free or Low-Cost Legal Resources**

The district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information or if you or the school district file a due process complaint. A legal resource list is also available on MDE's Special Education Hearings web page (MDE > Select Students and Families > Special Education > Conflicts in Special Education > Special Education Due Process Hearings).

## **Complaint and Hearings Database**

Final decisions on special education complaints and due process hearings are available to the public on the MDE website. MDE maintains a public database and makes decisions available that are redacted, removing all personally identifiable information. This database is available on MDE's website at:  
<https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=366>.

## **Civil Action**

When you or the district disagrees with the findings or decisions made by a hearing officer, either party may file a court action. The action may be brought in federal district court or the state court of appeals. Different standards of review apply in each court. An appeal to the state court of appeals must be made within 60 calendar days of your receipt of the decision. An appeal to federal district court must be made within 90 days of the date of the decision.

## Placement during a Hearing or Civil Action

During a hearing or court action, unless you and the district agree otherwise, your child will remain in the educational placement where he/she is currently placed and must not be denied initial admission to school. This is commonly referred to as the “stay-put” rule.

Two exceptions to the “stay-put” rule exist:

1. Students may be removed from their educational setting for not more than 45 school days to an interim alternative educational placement for certain weapon, drug or serious bodily injury violations); and
2. A hearing officer’s decision agreeing with you that a change in placement is appropriate as the “stay-put” placement during subsequent appeals.

## Expedited Hearings

You (the parent) or the district can file a due process complaint and request an expedited hearing in the following situations:

1. Whenever you dispute the district’s proposal to initiate or change the identification, evaluation or educational placement of your child or the district’s provision of FAPE to your child;
2. Whenever you dispute the district’s refusal to initiate or change the identification, evaluation or educational placement of your child or the district’s provision of FAPE to your child;
3. Whenever you dispute the manifestation determination; and
4. Whenever the district believes that maintaining the current placement of your child is substantially likely to result in injury to the child or to others.

You or a school district may file a written due process complaint and request an expedited due process hearing as described above.

## Timelines for Expedited Hearings

Expedited hearings must be held within 20 school days of the date the expedited due process complaint is filed. The hearing officer must issue a decision within 10 school days after the hearing. A resolution meeting must occur within 7 days of receiving the expedited due process complaint unless you and the school district agree in writing to either waive the resolution meeting or use the mediation process. The expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receiving the request.

## Dismissal of Due Process Complaint

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

## **Placement by a Hearing Officer**

A hearing officer may decide to move your child to an interim alternative educational setting for up to 45 school days if the hearing officer determines your child is substantially likely to injure themselves or others if they remain in the current placement.

## **Right to Appeal Decision**

You or the district can appeal the decision of a hearing officer in an expedited due process hearing.

## **Interim Alternative Educational Placement**

The district may change your child's educational placement for up to 45 school days, if your child:

1. Carries a dangerous weapon to or possesses a dangerous weapon at school, on school premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the school district or MDE. This does not include alcohol or tobacco; or
3. Inflicts serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school district or MDE as defined in federal law.

On the date the district decides to remove your child and the removal is a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify you of that decision, and provide you with the procedural safeguards notice.

The IEP team determines the interim alternative educational setting and appropriate special education services. Even though this is a temporary change, it must allow your child:

1. To continue to participate in the general education curriculum and progress towards meeting goals set out in your child's IEP, although in a different setting; and
2. Include services and modifications designed to prevent the behavior from recurring.

If your child is placed in an interim alternative educational setting, an IEP meeting must be convened within 10 school days of the decision. At this meeting, the team must discuss behavior and its relationship to your child's disability. The team must review evaluation information regarding your child's behavior, and determine the appropriateness of your child's IEP and behavior plan. The team will then determine if your child's conduct was caused by, or had a direct relationship to his or her disability, or if your child's conduct was the direct result of the school district's failure to implement the IEP.

## **Attorney's Fees for Hearings**

You may be able to recover attorney fees if you prevail in a due process hearing. A judge may make an award of attorney's fees based on prevailing rates in your community. The court may reduce an award of attorney's fees if it finds that you unreasonably delayed the settlement or decision in the case. If the district prevails and a court

agrees that your request for a hearing was for any improper purpose, you may be required to pay the district's attorney's fees.

## **Exclusions and Expulsion of Pupils With a Disability**

Before your child with a disability can be expelled or excluded from school, a manifestation determination must be held. If your child's misbehavior is related to his or her disability, your child cannot be expelled.

When a child with a disability is excluded or expelled under the Pupil Fair Dismissal Act, Minnesota Statutes Sections 121A.41-56, for misbehavior that is not a manifestation of the child's disability, the district shall continue to provide special education and related services after the period a period of suspension, if imposed.

## **Disciplinary Removals**

If a child with a disability is removed from his or her current educational placement, this is considered a change of placement if:

1. The removal is for more than 10 school days in a row; or
2. Your child has been subjected to a series of removals that constitute a pattern because:
  - a. The series of removals total more than 10 school days in a year;
  - b. Your child's behavior is substantially similar to your child's behavior in previous incidents that resulted in a series of removals; and
  - c. Of additional factors such as the length of each removals, the total amount of time your child has been removed, and the proximity of the removals to one another.

The determination of whether a pattern of removals constitutes a change of placement is made by the district .If this determination is challenged it is subject to review through due process and judicial proceedings.

## **Children not Determined Eligible for Special Education and Related Services**

If your child has not been determined eligible for special education and related services and violates a code of student conduct, and the school district knew before the discipline violation that your child was a child with a disability then your child can utilize the protections described in this notice.

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

1. You expressed concern in writing to supervisory or administrative personnel at the district or to your child's teacher that your child is in need of special education and related services;
2. You requested an evaluation related to eligibility for special education and related services under Part B of the IDEA; or

3. Your child's teacher or other district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the district's director of special education or to other district supervisory staff.

## **Exceptions to a District's Knowledge**

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

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

## **Conditions that apply if there is No Basis of Knowledge**

If a district does not have knowledge that your child is a child with a disability prior to taking disciplinary measures against your child, your child may be subjected to similar disciplinary consequences that are applied to children without disabilities who engage in similar behaviors.

If a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner. Until the evaluation is complete, your child remains in the educational placement determined by the district, which can include suspension or expulsion without educational services. In Minnesota, regular special education services are provided on the sixth day of a suspension and alternative education services are provided.

## **Referral To and Action by Law Enforcement and Judicial Authorities**

A district can report a crime committed by a child with a disability to appropriate authorities and State law enforcement and judicial authorities can exercise their responsibilities under the law related to crimes committed by a child with a disability.

## **Transmittal of Records**

If a district reports a crime committed by a child with a disability, the district must ensure that copies of the child's special education and disciplinary records are transmitted to the appropriate authorities to whom the crime is reported for consideration. However, the district may only transmit copies of your child's special education and disciplinary records to the extent permitted by FERPA.

## **Private School Placement**

IDEA does not require the district to pay for the cost of educating your child, including special education and related services, at a private school if the district made FAPE available to your child and you chose to place your child in a private school. However, you may be able to recover tuition expenses for a private school placement if



you informed the district of your intent to enroll your child in a private school at public expense in a timely manner and if a hearing officer finds that the district did not promptly make FAPE available to your child prior to your child being enrolled in the private school and if the private placement is appropriate. You must inform the district of your intent to place your child in a private placement at public expense at the most recent IEP meeting prior to removal of your child from public school or by written notice to the district at least 10 business days prior to removal of your child from public school.

Your notice must state why you disagree with the district's proposed IEP or placement. If a hearing officer or court finds that the district failed to provide or is unable to provide your child with an appropriate education and that the private placement is appropriate, you may be reimbursed for the cost of the private placement. Failure to tell the school of your intent to enroll your child in a private school at public expense, failure to make your child available for evaluation prior to placing your child in a private school after the district has given you notice of its intent to evaluate your child, or other unreasonable delay on your part could result in a reduction or denial of reimbursement for the private school placement.

A hearing officer cannot reduce or deny the cost of reimbursement if: the district prevented you from being provided with this notice; you did not receive notice of your responsibilities as discussed above in this section; or if compliance with the above requirements would likely result in physical harm to your child and if you failed to provide the required notice because you cannot write in English or if compliance with the above requirements would likely result in serious emotional harm to your child.

## **Northern Lights Academy Cooperative #6096-52**

### **Restrictive Procedures Plan**

In accordance with Minnesota Statute 1125A.0942, Subd. 1(a), every school that intends to use restrictive procedures are required to maintain and make publicly accessible in an electronic format on a school or district Web site or make a paper copy available upon request describing a restrictive procedures plan for children with disabilities.

**"Restrictive procedures"** means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child. Restrictive procedures may be used only in response to behavior that constitutes an emergency, even if written into a child's IEP or BIP.

An **"emergency"** means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as:

- a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table;
- a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or
- an emergency incident has already occurred and no threat of physical injury currently exists.

**"Seclusion"** means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion. Northern Lights Academy Cooperative does not use seclusion with students. **Northern Lights Academy Cooperative does not use seclusion with students.**

I. **Northern Lights Academy Cooperative intends to use the following restrictive procedures:**

A. **Physical holding:**

1. "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement and where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect the child or other person from injury.
2. The term "physical holding" does not mean physical contact that:
  - a. helps a child respond or complete a task;
  - b. assists a child without restricting the child's movement;

- c. is needed to administer an authorized health-related service or procedure; or
    - d. is needed to physically escort a child when the child does not resist or the child's resistance is minimal.
  - 3. ***Northern Lights Academy Cooperative*** intends to use the following types of physical holding\*:
    - a. Crisis Prevention Institute (CPI) Team Control
    - b. Crisis Prevention Institute (CPI) Children's Control
    - c. Crisis Prevention Institute (CPI) Standing Control Position
- II. ***Northern Lights Academy Cooperative*** will implement a range of positive behavior strategies and provide links to mental health services.
- A. **"Positive behavioral interventions and supports"** means interventions and strategies to improve the school environment and teach children the skills to behave appropriately.
  - B. ***Northern Lights Academy Cooperative*** implements the following positive behavior strategies:  
Attached as Appendix A.
  - B. ***Northern Lights Academy Cooperative*** provides the following links to mental health services within Northeast MN:
    - 1. Carlton County Public Health and Human Services:  
<https://www.co.carlton.mn.us/277/Public-Health-Human-Services>
    - 2. Nystrom & Associates, Ltd (Duluth):  
<https://www.nystromcounseling.com/>
    - 3. Essentia Health Behavioral and Mental Health Services:  
<https://www.essentiahealth.org/services/behavioral-mental-health-services/%20>
    - 4. St. Louis County Public Health and Human Services:  
<https://www.stlouiscountymn.gov/departments-a-z/public-health-human-services>
    - 5. National Alliance on Mental Illness (NAMI) Duluth Area:  
<https://namiduluth.org/>
    - 6. Arrowhead Psychological Clinic  
<https://www.mnpsych.com/>
    - 7. Human Development Center (Northeast MN)  
<https://hdcnorth.org/>
    - 8. Accend Services:  
<http://accendservices.com/>
    - 9. Cromwell Medical Clinic:

<http://www.cromwellmedicalclinic.com>

10. Pine County Health and Human Services:  
<http://www.co.pine.mn.us/>
11. Northwood Children Services  
<https://www.northwoodchildren.org/>
12. Lighthouse Child and Family Services LLC  
<https://lighthousecfs.com/>
13. Therapeutic Services Agency  
<http://www.hoperealized.com/>
14. Lake County Health and Human Services:  
<http://www.co.lake.mn.us>
15. Aitkin County Health and Human Services:  
<https://www.co.aitkin.mn.us>
16. Amberwing:  
<http://www.amberwing.org>
17. Northshore Counseling:  
<http://www.northshorecounseling.weebly.com>
18. Paradigm Therapy Services (Duluth and Cloquet)  
<https://paradigmtherapyservices.com/>

**III. *Northern Lights Academy Cooperative* will provide training on de-escalation techniques.**

**A. Northern Lights Academy Cooperative provides the following training on using positive behavior interventions;**

1. On-site individualized de-escalation training provided by Northern Lights Academy Cooperative staff and Northern Lights Special Education Cooperative staff
2. Nonviolent Crisis Intervention Training - Units I-IV (see below for individual topics)
3. Other training provided by district as opportunities arise

**B. Accommodating, modifying and adapting curricula, materials, and strategies to appropriately meet the needs of individual student and ensure adequate progress:**

1. Training provided by Northern Lights Special Education Cooperative

**IV. *Northern Lights Academy Cooperative* will monitor and review the use of restrictive procedures in the following manner:**

**A. Documentation of Incident:**

1. Each time physical holding is used, the staff person who

implements or oversees the physical holding shall document, as soon as possible after the incident concludes, the following information:

- A description of the incident that led to the physical holding;
- Why a least restrictive intervention failed or was determined by staff to be inappropriate or impractical;
- The time the physical holding began and the time the child was released; and
- A brief record of the child's behavioral and physical status.

2. Attached as Appendix B, is *Northern Lights Academy Cooperative's* forms used to document the use of physical holding, including the below debriefing information.

**B. Post-use debriefings, consistent with documentation requirements:**

1. Each time physical holding is used; the staff person who implemented or oversaw the physical holding shall conduct a post-use debriefing with case manager, within 2 school days after the incident concludes.
2. The post-use debriefing will review the following requirements to ensure the physical holding was used appropriately:
  - Whether the physical holding was used in an emergency;
  - Whether the physical holding was the least intrusive intervention that effectively responds to the emergency;
  - Whether the physical holding or was used to discipline a noncompliant child;
  - Whether the physical holding ended when the threat of harm ended and the staff determined that the child could safely return to the classroom or activity;
  - Whether the staff directly observed the child while physical holding was being used;
  - Whether the documentation was completed correctly;
  - Whether the parents were properly notified;
  - Whether an IEP team meeting needs to be scheduled;
  - Whether the appropriate staff used physical holding;
  - Whether the staff that used physical holding was appropriately trained.
3. If the team determines, through the post-use debriefing, the use of physical hold was not used appropriately, ***Northern Lights Academy Cooperative*** will ensure immediate corrective action is taken, such as administrative review of procedures and staff training.

**C. Oversight Committee**

1. ***Northern Lights Academy Cooperative*** publicly identifies the following oversight committee members. See Appendix C for current district specific staff.
  - mental health professional, school psychologist, or school social worker
  - an expert in positive behavior strategies
  - a special education administrator
  - a general education administrator

2. **Northern Lights Academy Cooperative** oversight committee meets quarterly at a mutually agreed upon time and place.
  3. **Northern Lights Academy Cooperative** oversight committee will review the following:
    - The use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of week, duration of the use of a restrictive procedure, the individuals involved, or other factors associated with the use of a restrictive procedures;
    - The number of times a restrictive procedure is used school wide and for individual children;
    - The number and types of injuries, if any, resulting from the use of restrictive procedures;
    - Whether restrictive procedures are used in non emergency situations;
    - The need for additional staff training; and
    - Proposed actions to minimize the use of restrictive procedures.
- V. **Northern Lights Academy Cooperative** staff who use restrictive procedures, including paraprofessionals, receive training in the following skills and knowledge areas. Northern Lights Special Education Cooperative keeps data and documentation on all restrictive procedures training provided for staff in its member districts.
- A. **Positive behavioral interventions:**
    1. CPI Crisis Development Model, Verbal Interventions
    2. Written Documentation of training kept on file
  - B. **Communicative intent of behaviors:**
    1. CPI Unit titled: CPI Crisis Development Model & Preventative Techniques
  - C. **Relationship building:**
    1. CPI Unit titled: Preventative Techniques
  - D. **Alternative to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior:**
    1. CPI Unit titled: Precipitated Factors, Rational Detachment, Integrated Experience
  - E. **De-Escalation methods:**
    1. CPI Unit titled: CPI Crisis Development Model
  - F. **Standards for using restrictive procedures only in an emergency:**
    1. CPI Unit titled: Nonviolent Physical Crisis and Team Intervention & Understanding the Risks of Restraints
  - G. **Obtaining emergency medical assistance:**
    1. Nonviolent Physical Crisis Intervention and Team intervention & Training on local numbers to call in case of an emergency

- H. **The physiological impact of physical holding and seclusion:**
    - 1. CPI Unit titled: Nonviolent Physical Crisis and Team Intervention, Understand the Risks of Restraints & Crisis Development Model
  - I. **Monitoring and responding to a child's physical signs of distress when physical holding is being used:**
    - 1. CPI Unit titled: Nonviolent Physical Crisis Intervention & Team Intervention
  - J. **Recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used:**
    - 1. CPI Unit titled: Participant workbook Chapter Understanding the Risks of Restraints
  - K. **District policies and procedures for timely reporting and documenting each incident involving use of a restrictive procedure:**
    - 1. District Restrictive Procedures Plan and Documentation Forms
  - L. **Schoolwide programs on positive behavior strategies**
    - 1. See Appendix A
- VI. ***Northern Lights Academy Cooperative* will never use the following prohibited procedures on a child:**
- A. **Engaging in conduct prohibited under section 121 A.58 (corporal punishment);**
  - B. **Requiring a child to assume and maintain a specified physical position, activity that induces physical pain;**
  - C. **Totally or partially restricting a child's senses as punishment;**
  - D. **Presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;**
  - E. **Denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;**
  - F. **Interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556 (reporting of maltreatment of minors);**
  - G. **Withholding regularly scheduled meals or water;**

- H. **Denying access to bathroom facilities; and**
- I. **Physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso.**



## **Appendices**

### **Northern Lights Academy Cooperative ISD #6096-52**

Appendix A: SpEd Forms Documentation

Appendix B: Oversight Committee

## Appendix A

### Use of Restrictive Procedure – Physical Holding

Student

Name: \_\_\_\_\_ ID: \_\_\_\_\_ DOB: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Ethnicity: Is the student Hispanic/Latino?

☐ Yes ☐ No

What is the student's Race? (choose one or more)

☐ American Indian or Alaska Native ☐ Asian  
☐ Black or African American ☐ White  
☐ Native Hawaiian or Pacific Islander

**Directions:** The staff person who implemented or oversaw a physical hold must complete this form each time a physical hold is utilized.

#### Staff Involved:

Name:	Position	Role	Trained
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No

Person completing form: \_\_\_\_\_ Title: \_\_\_\_\_

### EMERGENCY

Was physical holding used to protect student or others from physical injury: ☐ Yes ☐ No

Description of the emergency situation:

Description of the incident that led to physical holding:

### PHYSICAL HOLDING

Description of the physical holding and a brief description of the student's behavioral and physical status:

Was physical holding the least intrusive intervention to effectively respond to the emergency? ☐ Yes ☐ No

Explain why a less restrictive intervention failed or was determined by staff to be inappropriate or impractical:

Did physical holding end when the threat of harm ended and staff determined that the student could safely return to the classroom or activity? ☐ Yes ☐ No

Explain:

Did staff directly observe the child during physical holding? ☐ Yes ☐ No

Explain:

Did staff sustain an injury as a result of the physical holding: ☐ Yes ☐ No

Did the student sustain an injury as a result of the physical holding: ☐ Yes ☐ No

Time physical holding began: \_\_\_\_\_ Ended: \_\_\_\_\_ Total time: \_\_\_\_\_

#### Removal From School

Was the student removed from school by a police officer at the request of school personnel: ☐ Yes ☐ No

#### Parent Notification

Parents must be notified the same day a restrictive procedure is used. A written or electronic notice must be sent home within two (2) days if unable to notify on the same day.

Parent: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Notified by: \_\_\_\_\_

How notified: \_\_\_\_\_

## Appendix A

## Staff Debriefing Meeting

Student

Name: \_\_\_\_\_ ID: \_\_\_\_\_ Date: \_\_\_\_\_

School: \_\_\_\_\_ Grade: \_\_\_\_\_ DOB: \_\_\_\_\_a

Date of Incident: \_\_\_\_\_ Date of Debriefing: \_\_\_\_\_

**Directions:** Within two (2) school days following the use of a restrictive procedure, the staff person who implemented or oversaw the physical holding or seclusion shall conduct a post-use debriefing. The debriefing must include at least one staff member who has knowledge of behaviors who was not involved in the incident.

Student was on an IEP: ☐ Yes ☐ No

Was IEP implemented correctly?    ☐ Yes    ☐ No

Was a BIP in place:      ☐ Yes    ☐ No

Was BIP implemented correctly?    ☐ Yes    ☐ No

Identify the antecedents, triggers and proactive interventions used prior to escalation:

Briefly describe the impact of these less restrictive interventions:

What behavior necessitated the use of a restrictive procedure?

Describe student and staff behavior during the incident:

What actions helped or didn't help?

Describe the procedure used to return the student to his/her routine activity:

Was the hold/seclusion the in response to an emergency situation: ☐ Yes ☐ No

Was the hold/seclusion the least restrictive intervention? ☐ Yes ☐ No

Did the hold/seclusion end when the threat of harm ended? ☐ Yes ☐ No

Is corrective action needed? ☐ Yes ☐ No

Is the behavior likely to reoccur? ☐ Yes ☐ No

Follow-up action to prevent the need for future use of restrictive procedures:

**Behavior History:**

Other restrictive procedures used in a the last 4 weeks: ☐ Yes ☐ No

Restrictive procedures used twice in a month: ☐ Yes ☐ No

Does the team see this as a pattern: ☐ Yes ☐ No

Does the child's IEP team need to meet? ☐ Yes ☐ No

**Staff Attending Debriefing** (should include one individual not involved in the incident)

Facilitator: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Northern Lights Academy Cooperative #6096-52***  
**Building Oversight Committee Members**  
**(2023-24 School Year)**

**Garfield School Committee Members**

Lesa Dalbec, School Social Worker

Barb Mackey, Assistant Special Education Director

Connie Hyde, Principal, Cloquet Area Alternative Principal (General Education Principal) Stephanie Roeper, Morgan Sailsbury, or Wil Osborne Special Education Teachers

Jessica Cook, NLSEC Special Education Director

**Carlton Oversight Committee Members**

Lesa Dalbec, School Social Worker

Barb Mackey, Assistant Special Education Director

Connie Hyde, Principal, Cloquet Area Alternative Program

Amiliya Calverley, Jeremy Scholer, Nate Knutson or Emily Brown, Special Education Teachers

Jessica Cook, NLSEC Special Education Director

## Appendix IV: Independent Educational Evaluation

### NORTHERN LIGHTS ACADEMY COOPERATIVE PUBLIC SCHOOLS INDEPENDENT EDUCATIONAL EVALUATION DEFINITIONS AND CRITERIA

- A. Definition of Independent Educational Evaluation (IEE).** An IEE is an “evaluation” conducted by a qualified examiner who is not employed by Independent School District No. 6096-52, Northern Lights Academy Cooperative (the “District”). The IEE must focus on whether the District evaluation with which the Parents disagree was appropriate at the time it was completed. An “evaluation” refers to procedures that are used to determine whether a student has a disability and the nature and the extent of the special education and related services the student needs. An IEE is educational in nature. An IEE does not involve the receipt of medical care, treatment, or medical advice, and no physician-patient privilege, psychologist-patient privilege, or similar relationship is created as the result of an IEE.
- B. Examiner Qualifications.** Independent examiners must be qualified to conduct an IEE. To be qualified, independent examiners must be licensed by the Minnesota Department of Education, the Professional Educator Licensing and Standards Board, or by an accredited organization or agency, if any, that represents their profession within their state or nationally. An independent examiner must not be related to the student. Upon request, the District will give you an opportunity to show that unique circumstances justify the selection of an independent examiner who does not have such qualifications.
- C. Geographic Area.** Independent examiners must be located within 100 miles of the school the child attends. Numerous independent examiners are located within this geographic area. Upon request, the District will give you an opportunity to show that unique circumstances justify the selection of an independent examiner who does not meet District location criteria.
- D. Evaluation Instruments.** Evaluation instruments must be relevant in determining whether the student has a disability, the student’s individual educational needs, or the extent of the special education and related services the student needs. In addition, evaluation instruments must be age appropriate and current. To be current, an evaluation instrument must be the most recent version available or must otherwise be recognized by the publisher as being valid at the time it is administered. Evaluation instruments must also be administered, scored, and interpreted in compliance with the publisher’s requirements and guidelines.
- E. Classroom Observations.** An IEE may include observations in an educational setting. Classroom observations must be conducted in a manner that does not create a disruption or unnecessary distraction. For example, an evaluator who is conducting a classroom observation may not initiate an interaction or discussion with any students or with the teacher while instruction is occurring.
- F. Evaluation Data.** Upon completing the IEE, the independent examiner must submit a copy of the following to District: all completed assessment protocols; all completed rating scales; all assessment worksheets; all scoring data, including, but not limited to, subtest scores and

composite scores; and all other data that have been gathered, reviewed, compiled, or generated as a result of the IEE.

- G. Evaluation Report.** The independent examiner must prepare a written evaluation report that summarizes the evaluation results. In accordance with Minnesota Rule 3525.2710, the report must contain: (1) a summary of all evaluation results, including but not necessarily limited to standard scores, subtest scores, and ratings, if applicable, from assessment instruments that were administered; (2) an interpretation of the assessment results, including documentation of whether the student has a particular category of disability or, in the case of a reevaluation, whether the student continues to have such a disability; (3) the student's present levels of performance and educational needs that derive from the disability; (4) whether the student needs special education and related services or, in the case of a reevaluation, whether the pupil continues to need special education and related services; and (5) whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's IEP and to participate, as appropriate, in the general curriculum. The report should also contain dates when evaluation activities were conducted and facts in support of any opinions or recommendations contained in the report.
- H. Costs.** The cost of the IEE must be reasonable. You will be given the opportunity to demonstrate that unique circumstances justify an IEE with costs that would not ordinarily be deemed to be reasonable. The District may initiate a special education due process hearing to challenge any costs that it deems to be unreasonable.

### **INFORMATION ABOUT WHERE AN IEE MAY BE OBTAINED**

The following is a list of independent examiners who may be qualified to conduct an IEE. You may select an evaluator from the enclosed list. Alternatively, you may select an evaluator who does not appear on the enclosed list.

**A. Cognitive Testing, Behavioral Assessments, and Functional Behavior Assessments:**

Licensed School Psychologist, Duluth Public Schools  
Licensed School Psychologist, Northland Learning Center  
Licensed School Psychologist, Itasca Area Schools Collaborative

**B. Academic Testing, Transition Assessments:**

Licensed Special Education Teacher, Duluth Public Schools  
Licensed Special Education Teacher, Northland Learning Center  
Licensed Special Education Teacher, Itasca Area Schools Collaborative

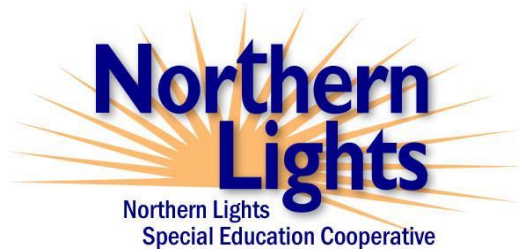
**C. Motor/Sensory:**

Occupational Therapy, Duluth Public Schools  
Occupational Therapy, Itasca Area Schools Collaborative  
Physical Therapy, Duluth Public Schools  
Physical Therapy, Itasca Area Schools Collaborative



## **PARENT RESPONSIBILITIES**

- A. Selection of Independent Examiner Who Meets Criteria.** You are responsible for selecting an independent examiner(s) who meets the District's criteria. An exception will be made if you can demonstrate that unique circumstances justify the selection of an independent examiner who does not meet the District's criteria. The District may request a hearing to challenge your right to an IEE at public expense if the District concludes that the IEE does not meet the District's criteria.
- B. Selection of Independent Examiner Who is Available.** You are responsible for selecting an independent examiner who is available and able to complete the IEE within a time frame that is acceptable to you. An IEE is not a public school evaluation. The District has no control over whether a particular examiner is available or when an IEE will be completed.
- C. Scheduling the IEE.** You are responsible for scheduling the IEE. At your request, the District will cooperate with you in scheduling the IEE, including any classroom observations.
- D. Planning the IEE.** You are responsible for planning the IEE and determining the areas that the IEE will cover.
- E. Consent for Review of Records.** The independent examiner may ask to review educational records that are relevant to an educational evaluation. In order for the District to provide any of your child's educational records directly to the independent examiner, you must sign a form authorizing the District to release educational data to the examiner. Upon request, the District will provide you with the necessary form.
- F. Meeting to Consider Results of IEE.** The IEP team will meet to consider the results of the IEE. The team may accept or reject the results of the IEE, as well as any recommendations that are made by the independent examiner.



## Northern Lights Special Education Cooperative

16 East Hwy 61, PO Box 40, Esko, MN 55733  
P. (218) 655-5018 F. (218)451-4511

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### Northern Lights Academy Cooperative Public Schools Total Special Education System (TSES)

#### APPENDIX V: Consent Process for Third Party Billing

Northern Lights Academy Cooperative Public Schools will bill for health-related services that students may receive during the school day.

Northern Lights Academy Cooperative Public Schools will follow new regulations by obtaining parental consent before accessing a student's public benefits or insurance for the first time. This is a one-time consent and will no longer be required to obtain parental consent each time services are provided.

1. Northern Lights Academy Cooperative Public Schools will use the Medicaid Application as the one-time consent form for students ages 3-21.
2. Parents will also be notified annually by receiving a summer letter from the school district on the district's intent to bill. The parent will also receive a copy of the procedural safeguards at the initial/annual IEP meetings.
3. A team meeting notice will also be given at any initial/annual IEP meetings. This notice will also allow for the parents initials stating that they have received a copy of the procedural safeguards. See Appendix II.
4. For any students that are enrolled in Part C (Birth to three), the district will also provide parents with the "MA release of information" form located on SpEd Forms. In addition, to all of the above information given to parents, this release form has language that is consistent with the regulations and the IDEA Part C requirements. See Appendix A.
5. If you need any information regarding this procedure, please call the NLSEC office at 218-655-5018.



## **Written Annual Notice Related to Third Party Billing for IFSP Health-Related Services**

Under Part C of IDEA, the following early intervention services are provided at no cost to families:

- Child Find services;
- Evaluations and assessments;
- The development and review of the Individual Family Service Plan (IFSP);
- Service coordination; and
- Procedural safeguards

As residents of a Birth Mandate state, Minnesota infants and toddlers also receive free appropriate public education (FAPE) services at no cost to the family.

### **Notice and Consent for Third Party Billing**

Although Part C early intervention services for your child are provided at no cost to you, early childhood programs are required to ask for reimbursement from public and private insurance for health-related services included in your child's IFSP. Before billing Medical Assistance (MA) or MinnesotaCare for IFSP health related services, the early intervention program must provide you with written notification including:

1. Parental consent must be obtained to share information with the Minnesota Department of Human Services (DHS), the agency that administers MA and MinnesotaCare, for billing purposes and before disclosing your child's personally identifiable information. This consent is only required one time and the early childhood program may not use your child's benefits under MA or MinnesotaCare if that use would result in:
  - a. Decreased available lifetime coverage;
  - b. You paying for services otherwise covered by your public or insurance program;
  - c. Increase in premiums or discontinuation of public benefits; or
  - d. Risk loss of eligibility for your child or your family for home and community-based waivers.
2. The early childhood program may not require you to sign up for or enroll in MA or MinnesotaCare or any other insurance program in order for your child to receive the health-related services in your child's IFSP;
3. Your public insurance benefits will not be affected if used for IFSP health-related services;

4. Consent is required when private health insurance is billed initially and whenever the IFSP is revised due to increase (in frequency, length, duration or intensity) in the provision of services in your child's IFSP;
5. The Early Childhood program cannot require the use of private insurance to pay for Part C services if there is any cost to the family, including co-pays, deductibles, increased premiums or effects on service limits and prior authorization;
6. If private insurance is used and you are charged out of pocket expenses by your insurer, the school district may pay or reimburse co-payments, deductibles or other insurance related costs in connection with health related services in your child's IFSP and may use Federal IDEA Part C or other funds to pay for these costs;
7. If you have private insurance coverage, the early childhood program will seek a denial from your private insurance before public insurance or benefits are used to pay for early childhood services. Services will still be provided if your private insurance denies coverage for any reason; and,
8. You may withdraw your consent at any time, in writing, to disclose personally identifiable information and services in your child's IFSP will still be provided.

## **Dispute Resolution Options**

Federal law states that if there are issues related to the state's system of payments, you may do one of the following: participate in mediation, request a due process hearing, file a State complaint, or use any other procedure established by the State for speedy resolution of financial claims.