

**SPECIAL EDUCATION STANDARD OPERATING
PROCEDURES MANUAL
BERLIN PUBLIC SCHOOLS
2016 EDITION**

The District understands and acknowledges that the laws and interpretations of the laws may change over time. Readers of this Manual are expected to check additional resources (Connecticut State Department of Education, U.S. Department of Education, legal counsel, etc.) to ensure compliance with the law. This Manual is intended to provide general guidance and explanation of the procedures related to the special education laws. All decisions regarding individual students who are or may be eligible for special education must be made by the multidisciplinary team, including parents and teachers, who know such students well.

This Manual is intended to be read and utilized in conjunction with special education statutes and regulations as well as guidance from state and federal authorities.

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Additional Resources

- ✓ United States Code of Federal Regulations, Part 300, Assistance to States for the Education of Children with Disabilities, also available at
<http://www.gpo.gov/fdsys/pkg/CFR-2013-title34-vol2/pdf/CFR-2013-title34-vol2subtitleB-chapIII.pdf>.
- ✓ Regulations of Connecticut State Agencies 10-76a-1 through 10-76h-18 and Section 1076h-1 to 10-76l-1
 Located at: http://www.sots.ct.gov/sots/lib/sots/regulations/title_10/076.pdf
- ✓ Berlin Board of Education Policy 5265, Confidentiality and Access to Education Records Located at
http://www.fpsct.org/uploaded/District/assets/Policy/5000/5125_Confidentiality_and_Access_to_Education_Records.pdf

Acknowledgements

The Berlin Public Schools Standard Operating Procedures Manual for Special Education has been developed to provide educators and parents with specific information about the procedures utilized by the school district to provide special education and related services to children eligible for special education.

The Work Group used the Model Policies and Procedures Manual developed by the Connecticut State Department of Education as the template for the District's Manual.

The District would like to thank Shipman and Goodwin for their continued support and legal counsel provided to the District in the development of this manual.

Introduction

All Berlin community members should have a shared understanding of the legal and regulatory requirements for the provision of a public school education and, specifically, the requirements for special education and related services to students with disabilities eligible for special education. Special education is not a place. It is an array of services and supports for students, staff, and parents that provides students with disabilities access to the curriculum and learning experiences of the public school, including nonacademic and extracurricular activities, through an individualized education program that addresses the students' needs and concerns. In other words, special education gives students with disabilities the public school experience their nondisabled classmates are provided.

For community members, including interested members of the public or members of the Board of Education or Board of Finance, a basic understanding of how special education is provided is critical to making decisions for the Town of Berlin and the Berlin Board of Education.

For the immediate school community, parents and educators, understanding how special education is provided is critical to ensuring that children eligible for special education receive the services they are entitled to. An understanding of the fundamentals of providing special education and how the District meets the basic requirements allows the focus of interactions between parents and educators to be on meeting the needs of children eligible for special education.

GLOSSARY of Terms Used in This Manual

The following terms are defined in the IDEA and the state statutes and regulations and are used throughout this Manual. District personnel should review these commonly used terms and their definitions. The citations for definitions taken from the federal and state regulations are provided below and can be found in Appendix A, 34 CFR Part 300; and Appendix B, Regulations of Connecticut State Agencies 10-76a-1 through 10-76h-18.

Assistive technology device:

IDEA Regulation, 34 CFR 300.5

Assistive technology service:

IDEA Regulation, 34 CFR 300.6

Consent:

IDEA Regulation, 34 CFR 300.9

District:

The Berlin Public Schools

Eligible Student:

A student who has attained the age of majority or has been declared an emancipated minor by a court of competent jurisdiction

Evaluation:

IDEA Regulation, 34 CFR 300.15

Extended school year services:

IDEA Regulation, 34 CFR 300.106(b)

Free appropriate public education or FAPE:

IDEA Regulation, 34 CFR 300.17

Individualized education program or IEP:

IDEA Regulation, 34 CFR 300.320

Least Restrictive Environment or LRE:

IDEA Regulation 34 CFR 300.114

Native Language:

IDEA Regulation, 34 CFR 300.29

Nonacademic and Extracurricular Services and Activities:

IDEA Regulation, 34 CFR 300.107(b)

Parent:

IDEA Regulation, 34 CFR 300.30

Planning and Placement Team or PPT for a Child with a Disability (Individualized Education Program Team (IEP Team)):

IDEA Regulation, 34 CFR 300.321

Please note: in the IDEA, the team called to conduct an evaluation and develop, review or revise the IEP is the Individualized Education Program Team (IEP Team). The PPT in Connecticut, for children eligible for special education, is defined as the IEP Team found in the IDEA regulations. See Regulations of Connecticut State Agencies Section 10-76d-1(15).

Planning and Placement Team (PPT) for the Evaluation and Identification of Gifted and Talented Students:
Regulations of Connecticut State Agencies, 10-76a-1(15)

Related Services:

IDEA Regulation, 34 CFR 300.34

Special Education:

IDEA Regulation, 34 CFR 300.39

Supplementary Aids and Services:

IDEA Regulation, 34 CFR 300.42

Transition services:

IDEA Regulation, 34 CFR 300.43

CHAPTER ONE - CHILD IDENTIFICATION

Process Overview

Child Find

In accordance with Part B of the Individuals with Disabilities Education Act (IDEA), the federal law and regulations concerning the provision of special education and related services to students eligible for special education, as well as applicable state law and regulations, Berlin has a child identification process that provides for the location, identification, and evaluation of all children from birth through age 21 who may require special education and related services. In addition, the District identifies and evaluates students (Kindergarten through Grade 12) enrolled in the public schools of the Berlin Board of Education who may be gifted or talented.

Child Find includes referral and possibly identification and evaluation of students who are:

- Advancing from grade to grade;
- Enrolled by their parents in private nonprofit elementary or private secondary schools, including religious schools located in our District (regardless of the severity of their disability);
- Wards of the state;
- Highly mobile, such as migrant and homeless children; and,
- Suspended repeatedly or whose behavior, attendance, including truant behavior, or progress in school is considered unsatisfactory or at a marginal level of acceptance.

Special Rules for the Initial Evaluation of Wards of the State

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

1. After reasonable efforts, the District cannot find where the parent is located;
2. The rights of the parent have been terminated by the court; or
3. A judge has ordered that decisions about the student's education are to be made by a person appointed by the court.

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

A surrogate parent who will represent the student in the educational decision-making process may need to be appointed by the Connecticut State Department of Education. A student who is entitled to receive a surrogate parent is (1) a student who is or may be eligible for special education, or was eligible for special education and is no longer eligible but receives services, or may be eligible to receive services under Section 504 of the Rehabilitation Act of 1973; and (2) a student for whom the parent or guardian cannot be identified, the whereabouts of the parent cannot be discovered after reasonable efforts to locate the parent have been made, such student is a ward of the state, or such student is an unaccompanied and homeless youth.

Private/Religious Schools

Please see Chapter Eight, “Students Participating in Private/Religious Schools”, for a detailed description of child find obligations and services provided to children enrolled in private schools.

Role of the Planning and Placement Team (PPT)

Every decision regarding special education, including eligibility determinations, evaluations, programming, and services, is made by a team, which includes the parents as integral members, called the Planning and Placement Team (PPT). The composition of the PPT is specified by federal and state regulations. The PPT is convened in every school when a decision regarding eligibility for special education is to be made and ensures that the student meets the eligibility requirements of the IDEA.

Identification of Children Between the Ages of Birth to Age Three

Under the IDEA Part C, the State’s early intervention system, Connecticut Birth to Three System, is responsible for identifying and providing services to children between the ages of birth and age three who are eligible to receive such services.

Because of their overlapping responsibilities, the Connecticut State Department of Education (CSDE) and the Connecticut Birth to Three System have an interagency agreement intended to ensure that children with disabilities are provided necessary services in a timely manner. The CSDE asks districts to ensure that children between the ages of birth and three are referred to the Connecticut Birth to Three System for an evaluation. Therefore, when Berlin is informed of a child that age who have or may have a disability, it will either (a) make a child referral directly to the Connecticut Birth to Three System via the statewide toll-free number or (b) provide the parent with the information so that the parent can make the referral.

The IDEA provides that all eligible children are provided with FAPE no later than their third birthday. In situations where the child is referred by their parents at 34 or 35 months of age, it is important to make reasonable, good faith efforts to complete the referral process within 45 school days of the referral.

Referrals to a PPT made on or after May 1st and prior to the last day of school shall be forwarded to the appropriate school-based Special Education Department Leader, with a copy to the Director of Special Services. Referrals received after the last day of school and prior to the start of the following school year must be forwarded to the Director of Special Services to ensure compliance with applicable legal requirements.

Transition to Special Education from the Connecticut Birth to Three System -

http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Early/preschoolSE/Transition_BT3_Forum_2014.pdf

A student receiving services through the Connecticut Birth to Three System may be eligible to receive special education and related services through the District upon reaching age three. While the District receives contact information for all children who are age two and one half and are receiving services through Connecticut Birth to Three, parents must consent to the release of information from the Birth to Three System to the District before substantive information can be shared with the District. Some parents may wait to give the Birth to Three System consent to transfer information to the District, while others may elect not to provide consent for the release of such information.

The purpose of transition planning for children in the Connecticut Birth to Three System is to ensure that eligible children and their families experience a smooth and effective transition from the Connecticut Birth to Three System to the Berlin Public Schools. If the parent has consented to the release of information, the process of transitioning the student is as follows:

- The District receives child specific information from the Birth to Three System on those children who have been determined eligible and are receiving early intervention services. The District has a system of collecting and maintaining this data and other child specific information to track children receiving early intervention services over time to ensure they are timely evaluated, to determine eligibility, and, if eligible, to provide a free appropriate public education (FAPE) by age 3.
- The District has an assigned transition contact that is the primary person responsible for working with the Birth to Three System and their programs on transition, as well as one or more individuals who will attend all 90-day transition conferences convened by the Birth to Three System throughout the calendar year, including during the summer months.
- The District will schedule a Planning and Placement Team (PPT) meeting to discuss the referral of a child to Berlin. The PPT meeting will be scheduled sufficiently early (preferably soon after the 90-day transition conference) to ensure that an eligible child will receive FAPE no later than their third birthday as required by law. Identification of PPT meeting dates can be a part of the discussion at the 90-day transition planning conference and a component of the child's written transition plan developed at the transition planning conference with the Birth to Three Program, the family and the District.
- Berlin invites the child's Birth to Three providers to participate in the PPT decision-making process, and the child's Birth to Three information, including the child's Individualized Family Service Plan ("IFSP") is used in the decision-making process.
- If the child is scheduled to transition from the Birth to Three Program to Berlin public schools and that child turns 3 during the summer months, the District will determine if the child is eligible for FAPE and whether the child requires extended school year (ESY) services. If the child is eligible for the provision of FAPE and requires ESY services, the District will ensure the implementation of the IEP no later than the child's third birthday, regardless of the fact that this occurs during the summer months. If it is determined that the child is eligible for FAPE and does not require ESY services, then the IEP will be implemented on the first day of school.
- The Connecticut State Department of Education and the Birth to Three System agree that late referrals to the Birth to Three System (33 months and older) should be made simultaneously to the District and the Connecticut Birth to Three System, with the ultimate goal of ensuring that these children, if eligible, are provided with FAPE by their third birthday.

A designated member of the PPT should be prepared to discuss with the parents the differences between the Birth to Three System and the public school district in the provision of special education and related services to students. Areas of discussion could include: the difference in focus (for example, the Birth to Three System is family oriented, where education is focused on the individual student with alignment of services to curriculum based standards); the difference between an Individualized Family Service Plan (IFSP) and an individualized education program (IEP); and the nature of the specialized instruction and related services the student will receive to help them to learn in school to access and make progress in the curriculum.

Identification of Children below School Age

For children who are not involved in the Connecticut Birth to Three System, including children under the age of 3, the District conducts ongoing Child Find activities which include community screenings as well as individual child specific screenings to determine if a child requires further evaluation (and to determine the eligibility of children age 3 and above for special education and related services).

Through this process, children who may require special education services are referred to the Planning and Placement Team (PPT) for consideration for further evaluation. Parents and other referring parties may also contact the special education department to refer a child to a PPT.

Identification of School-Age Students (5-21 Years of Age)

Transfer Students

The principal or designee in each of our schools reviews the records of any new student transferring from another school system, whether transferring from a district within Connecticut or from out of state. If the records indicate the student has been identified as a student with a disability and requires special education and related services, the student, once enrolled, is provided a free appropriate public education including services comparable to those described on the student's Individualized Education Program (IEP). A Planning and Placement Team (PPT) meeting must be held at the earliest possible opportunity to review and revise, where appropriate, the student's IEP.

Currently Enrolled Students

Students attending Berlin schools receive the ongoing attention of professional personnel to help support their successful learning. Students whose behavior, attendance (including truant behavior), or progress in school is considered unsatisfactory, at a marginal level of acceptance (i.e., potential drop-outs), or are suspended repeatedly, are promptly referred to a PPT with the school completing the District's standard referral and following procedures for notifying the parents (within five school days of the referral by completing the Notice of Referral to PPT). A PPT meeting is scheduled to discuss the referral concerns and to decide how the PPT will proceed. The PPT will review current data on the student and decide: (1) there is no reason to suspect the student may be a student with a disability and no further action needs to be taken; or (2) the student may be a student with a disability and the PPT is able to determine the student's eligibility for special education and write an IEP based on the current data (including appropriate evaluations); or (3) the student may be a student with a disability and the PPT does not have enough data to determine eligibility or write an IEP and proposes the student be evaluated. For further information on the evaluation process, refer to the chapter entitled "Evaluation/Reevaluation."

Any student may be referred to a PPT at any time by a parent or guardian, as well as from a student's physician, clinic or social worker, provided the parent so permits, to determine the student's eligibility for special education and related services. See Referral Process below.

General Education Interventions

Before Berlin personnel refer a student to a PPT, alternative procedures and programs in general education are explored and implemented where appropriate. Each school has a Child Study Team (SAT, SHARES, IDT) that provides a variety of alternative strategies to the teacher. Parents are encouraged to collaborate with the teacher and other involved staff during this time. Interventions in general education may include instructional or behavioral strategies that address the student's concerns.

Parents or school personnel may request assistance from the school's Child Study Team, which works collaboratively with the classroom teacher and parents to develop and document strategies that assist the student within the general education program. If the student's problems or difficulties persist, a prompt referral to a PPT is made.

Additionally, initiatives in general education programming such as Scientific Research-Based Interventions (SRBI) are designed to emphasize successful instruction for all students through the differentiation of instruction in the classroom. Differentiated instruction provides opportunity to maximize progress for all students in the classroom by addressing differences in student learning and adapting instruction and materials to meet their needs. SRBI emphasize high quality core general education practices, as well as targeted instruction for students experiencing learning, social-emotional or behavioral difficulties. (CSDE Overview of SRBI-2008)
http://www.sde.ct.gov/sde/lib/sde/pdf/pressroom/SRBI_full.pdf

SRBI are designed to ensure that all students in public school classrooms receive appropriate instruction by collecting critical information about the student's instructional strengths and needs and using this information to create effective, research-based instructional interventions in general education with frequent monitoring of student progress. The District is required to try interventions in the general education classroom as appropriate for the child before a referral is made for a special education evaluation. These interventions can range from less rigorous strategies to multi-tiered interventions. Should the student not respond to the higher levels of intervention, as evidenced by progress monitoring data, a prompt referral to a PPT is made. At any time during periods or tiers of intervention, a student may be referred to the PPT should parent/or staff believe that a child has a disability that requires a special education program and/or services.

A parent may make a referral at any time for a special education evaluation regardless of where the District is in the intervention process. The District must hold a PPT meeting to consider any referral. At that time, the referral PPT will determine whether or not to conduct an evaluation or continue with the intervention process. The District will continue the general education interventions even though a referral for special education evaluation has been made (please refer to the district SRBI manual for further information).

Referral Process

The Board of Education shall make available information, understandable to the general public, concerning the procedures for requesting an initial evaluation of a child to all parents and professional staff.

The written request for an evaluation of a child who is suspected of having a disability and may be in need of special education/related services can be made by:

- The student, 18 years or older
- A parent, guardian, or surrogate parent
- School personnel

A standard referral form is used to document all referrals to the Planning and Placement Team (PPT). This form is available at the Special Education Department or in each of our schools. Concerned parents or staff may complete the form. Once completed, the form is given to the school administrator or the PPS office. The completion of this referral form initiates the PPT process. For purposes of determining if the evaluation timeline is met, the date of the referral is the day the District staff receive the referral, not the day the referral form is filled out by the District staff.

The parent is not required to submit the standard referral form for an initial evaluation. The District will accept a concern expressed in writing from the parent that the student be referred for an initial evaluation and will provide this to administrative personnel, which in turn will start the PPT referral process. Referrals from parents are to be accepted and processed in all cases where the parent clearly indicates a concern that the student may be a student with a disability and will be discussed at the PPT. If a parent makes a referral but does not complete the referral form, District personnel shall complete the referral form. A staff member in each building is available for parents or professional staff to contact regarding school policies and procedures concerning referrals.

Notification

Berlin notifies parents and eligible students within five school days after the date of a referral to special education. The notification includes the following documents:

- Invitation to the PPT meeting
- The referral
- Notice to Parents about the PPT meeting, Evaluations and IEPs in compliance with Public Act 12-173.
- Copy of procedural safeguards and Restraint and Seclusion documents.
 - A full explanation of all procedural safeguards available to the parent or eligible student is sent with the referral notice. The notice must be in writing in a language understandable to the general public and in the dominant language or other mode of communication used by the parents, unless doing so is clearly not feasible. If the dominant language (or other mode of communication) of the parent is not written, the District shall ensure first, that the notice is translated orally or by other means in the dominant language or other mode of communication of the parents, and second, that the information is clearly presented and understood by the parents. There shall be written evidence that these two steps have been taken.

Eligibility

Disabilities

A critical role of the Planning and Placement Team (PPT) is to review the information gathered and determine whether a student is eligible for special education by reason of a disability. For a student to be eligible for special education in the public schools, he/she must meet the following criteria:

- The student must be between the ages of 3 to 21
- The student must have one or more of the disabilities listed and defined under the Individuals with Disabilities Education Act (IDEA), which include the following:
 - Autism
 - Deaf-Blindness
 - Developmental delay (for 3-5 year olds inclusive)
 - Emotional Disturbance
 - Hearing Impairment (Deaf or Hard of Hearing)

- Intellectual Disability (Note: Connecticut uses this term)
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- OHI/ADD /ADHD
- Specific Learning Disability
- SLD/Dyslexia
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment;
- The disability must adversely affect the child’s educational performance; and
- Because of the disability and the adverse impact on educational performance, the student requires special education and related services in order to help the student access the general education curriculum and to benefit from instruction.

Students Placed in Private Schools by Their Parents

Children with disabilities who are placed by their parents in private schools do not have an individual right to receive some or all of the special education and related services that he/she would receive if enrolled in the public schools. The school district in which the private school is located is responsible for providing a proportionate share of federally funded services. Specific and detailed information regarding this area is located in Chapter Eight, “Students Participating in Private/Religious Schools.”

Gifted and Talented

In Connecticut, districts are required to identify and evaluate students who may be gifted or talented. The identification and evaluation of students who may be gifted or talented is included in the special education services provided to students enrolled in public schools in Connecticut. It is not a requirement found in the IDEA.

Students in grades Kindergarten-12 enrolled in public schools in Berlin who may be gifted and talented are identified, referred and evaluated through a specific process. While identification is mandated under state law, programming is permissive. Berlin does not provide services to those students identified as gifted and talented.

“Gifted and talented” means a child identified by the Planning and Placement Team (PPT) as (1) possessing demonstrated or potential abilities that give evidence of very superior intellectual, creative, or specific academic capability and (2) needing differentiated instruction or services beyond those being provided in the regular school program in order to realize their intellectual, creative, or specific academic potential. The term includes children with extraordinary learning ability and children with outstanding talent in the creative arts as defined by these regulations.

“Extraordinary learning ability” means a child identified by the PPT as gifted and talented on the basis of either performance on relevant standardized measuring instruments, or demonstrated or potential achievement or intellectual creativity or both.

“Outstanding talent in the creative arts” means a child identified by the PPT as gifted and talented on the basis of demonstrated or potential achievement in music, the visual arts, or the performing arts.”

A district may identify up to 10 percent of its total school population for the district as gifted and talented.

Procedures for Identification of Gifted and Talented

The parents must be notified in writing that a referral to the Planning and Placement Team (PPT) has been made to determine a child's identification as gifted and talented. A PPT, for the purpose of identifying and evaluating students who may be gifted and talented, is a group of certified or licensed professionals who represent each of the teaching, administrative, and pupil personnel staffs and who participate equally in the decision-making process. These are persons knowledgeable in the areas necessary to identify and evaluate students to determine if they are gifted and talented.

The PPT must process the referral for an evaluation. The PPT may review existing data to determine if the student may be identified as gifted and talented. If the PPT determines that sufficient information exists to determine eligibility, further evaluation is not necessary. The parents may challenge the refusal of the PPT to find a student gifted and talented by requesting due process, discussed further below.

Steps in the Process of the Identification of Gifted and Talented Students

1. Parents must be notified in writing when the student is referred to the PPT for a consideration of identification of gifted and talented and, after the PPT has reviewed the assessment information, notified in writing if the student has met the criteria for identification as gifted and talented.
2. If the District recommends further evaluations and uses an individual assessment procedure (e.g., an individual intelligence test), certain procedural safeguards must be followed. Individual assessment requires proper notice and informed consent. Parents are notified that their child has been referred for evaluation and written consent for the evaluation must be obtained. Parents are informed of the results of the evaluation and informed whether or not the child has been identified as gifted and talented.
3. If group assessment procedures are used to identify gifted and talented students, consent to perform such assessments may not be required. Group assessments (e.g. achievement tests) given to all students within a district are nonspecific and, therefore consent is not required. If a group of students is to be evaluated specifically to determine identification as gifted and talented, notice and consent are required.
4. If a school district uses individualized assessment procedures, an individual PPT meeting may be held with the parents to discuss eligibility. However, Connecticut law does not require districts to hold individual PPTs with parents, since an IEP will not be developed. For purposes of determining eligibility where either individual and/or group assessments are used, it is acceptable for the PPT to review student assessment data and to identify a group of gifted and talented students during a single meeting.
5. Parents have the right to review and inspect any educational records related to their child. This includes records related to the determination of a child's identification as gifted and talented.
6. If at any time in the evaluation process the parents disagree with the decisions of the PPT, the parents have the right to challenge those decisions. For example, if the parents disagree with the District's refusal to evaluate the child, the parents may request either mediation or due process hearing to challenge this refusal. If the PPT determines the child is not gifted and talented, the parents may challenge this determination by requesting either mediation or a hearing.

Resources available by contacting the Berlin PPS Office:

- Berlin Referral to Determine Eligibility for Special Education and Related Services (ED 621)
- Berlin Parent Notice of Referral to Determine Eligibility for Special Education and Related Services (ED 622)

CHAPTER TWO - CONFIDENTIALITY

General Information

Berlin maintains education records of students requiring special education and related services. Additionally, Berlin maintains strict confidentiality of these education records and other personally identifiable information at collection, storage, disclosure, and destruction stages of handling. Parents and other appropriate persons are given access to records in accordance with federal and state law.

Berlin establishes and implements policies and procedures that ensure that records are classified, filed, protected, kept confidential, reviewed, and when appropriate, destroyed according to the IDEA, the Family Educational Rights and Privacy Act (FERPA), the state regulations concerning special education and the state Records Retention Schedule for education records maintained by public school districts. The Connecticut Public Record Administrator, located in the State Library, produces the Records Retention Schedule. Parents of students receiving special education and related services are notified annually of the policies and procedures concerning education records in the *Special Education Procedural Safeguards* provided to parents. Written policies and procedures concerning education records are also available to the public in the Superintendent's Office.

FERPA is a federal law that protects the privacy of students and parents by restricting access to, and protecting the confidentiality of, education records. FERPA defines specific rights of parents and students who are 18 years or older regarding their access to, and the confidentiality of, education records. FERPA contains requirements for the District to follow to ensure that the confidentiality of student records are maintained and that only authorized individuals have access to them. FERPA applies to public schools and other education agencies that receive federal funds.

The IDEA contains specific references to FERPA in regard to how the District should maintain education records. There are additional requirements for the release of special education records found in the IDEA that will be addressed later in this Manual.

Student health information, including but not limited to records of the school nurse, occupational or physical therapist or speech pathologist, and health information that outside health care providers have provided to the District, are considered "education records" covered by FERPA; thus, FERPA obligations apply to maintaining the confidentiality of these records. The Health Insurance Portability and Accountability Act (HIPAA) generally does not apply to records maintained by the District.

Education Records

"Education records" means those records directly related to a student and maintained by the District or by a party acting for the District. Education records to which the IDEA confidentiality provisions of FERPA apply may include any records, files, documents, and other materials that are maintained in writing, found in computer memory banks, video or audio tape, film, microfilm and microfiche by the District or by a party acting for the District.

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

"Personally identifiable" means information that includes:

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

Custodian of Records

The custodian of records, the Director of Pupil Personnel Services, ensures that all individuals who collect or use personally identifiable information receive training regarding the policies and procedures outlined in the IDEA and FERPA, as well as in District procedures concerning education records. (Berlin BOE Policy 5125 and 5125-R)

Release of Confidential Information

Parents have the right to access the education records of their children. There are other situations when individuals other than the parent may have access to a student's education records. FERPA requires that parental consent be secured for the release of (or access to) student education records unless disclosure is expressly permitted under one of the specific exceptions allowed under FERPA. For example, under FERPA, there is an extensive list of individuals, groups or governmental entities to whom education records may be released without the District first securing parental consent.

Parent Consent to Release Education Records

The District protects the confidentiality of personally identifiable information at all stages of handling; this includes collection, storage, disclosure, and destruction of information. The District obtains parental consent before a student's education records are disclosed to anyone, except where consent is not required under the FERPA. Exceptions to the consent requirement are explained more thoroughly in the next section.

The District does not release information from student education records to other providers of special education and related services without parental consent unless authorized to do so under federal and state law. The IDEA specifically requires the District to secure parental consent or the consent of an eligible student, before student education records may be released to officials of participating agencies providing or paying for secondary transition services in a student's IEP. In addition, if a student is enrolled, or going to enroll, in a private school that is not located in Berlin, parental consent must be obtained before education records are released between the District where the private school is located and Berlin school officials. Parental consent must always be obtained before the District may provide education records to any private school.

Conditions When Prior Consent Is Not Required to Disclose Information

In accordance with FERPA and Section 10-220h of Connecticut General Statutes, the District may disclose personally identifiable information from a student's education record without the consent of the parent or eligible student for a variety of reasons. A complete list of the conditions when prior consent is not required can be found in the FERPA Regulations, 34 CFR 99.31 <http://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf> The most common exceptions to the parental consent requirement used within the District are when disclosure is:

1. To school officials, including teachers, within the District and consultants with whom the District contracts

who have been determined by the District to have a legitimate educational interest to view the student education record. The Berlin Board of Education has defined “legitimate educational interest” to mean the need for a school official to review an education record in order to fulfill his or her professional responsibility. (Berlin BOE Policy 5125 and 5125-R)

2. Under FERPA, a school may not generally disclose personally identifiable information from a student's education records to a third party unless the student's parent has provided written consent. 34 CFR Section 99.30. However, there are some exceptions to FERPA's general written consent requirement. One such exception permits a school to non-consensually disclose information from a student's education records to another school where the student seeks or intends to enroll. 34 CFR Section 99.31(a)(2). The sending school may make the disclosure if it includes a statement in its annual notification of rights that it discloses education records for this purpose or if it makes a reasonable attempt to notify the parent in advance of the disclosure.
3. To officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents or eligible student be notified of the transfer at the same time that Berlin transfers the records; that they receive a copy of the record if desired; and that they have an opportunity to challenge the content of the record. When the new school informs the District in writing that the student is enrolled, Berlin will transfer the record no later than 10 calendar days after receipt of the written notification. This exception also permits the District to disclose education records to a proposed out-of-district placement provided the District makes reasonable attempts in advance to notify the parents or the District makes clear in its annual notice to parents that it may disclose records for enrollment purposes.

Section 10-220h of the Connecticut General Statutes requires the transfer of records under the following conditions: (“Days” refers to calendar days, unless otherwise specified.)

- a. When a student enrolls in a school in a new school district or in a new state charter school, the new school district or new state charter school shall provide written notification of such enrollment to the school district in which the student previously attended school or the state charter school. The school district in which the student previously attended school or the state charter school that the student previously attended (1) shall transfer the student's education records to the new school district or new state charter school no later than 10 days after receipt of such notification, and (2) if the student's parent or guardian did not give written authorization for the transfer of such records, shall send notification of the transfer to the parent or guardian at the same time it transfers the records.
 - b. In the case of a student who transfers from Unified School District #1, the new school district or new state charter school shall provide written notification of such enrollment to Unified School District #1 not later than 10 days after the date of enrollment, the unified school district shall, not later than 10 days after receipt of notification of enrollment from the new school district or new state charter school, transfer the records of the student to the new school district or new state charter school and the new school district or new state charter school shall, not later than 30 days after receiving the student's education records, credit the student for all instruction received in Unified School District #1.
4. To authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or State or Local Educational Authorities, under certain

conditions as described below. Berlin will provide such authorized representatives access to student or other records, which may be necessary in connection with the audit, evaluation, or enforcement of state and federally supported education programs. Berlin will not permit such representatives to collect personally identifiable data unless specifically authorized to do so by state and federal law.

5. In connection with a student's application for, or receipt of, financial aid;
6. To parents of a dependent student as defined in Section 152 of the Internal Revenue Code of 1986;
7. In connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. If the District determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. There must be a rational basis for the determination that a health or safety emergency exists.
8. To comply with a judicial order or lawfully issued subpoena provided that the District makes a reasonable effort to notify the parent or the eligible student in advance of compliance;
9. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests or student aid programs, and improving instruction;
10. Of student education records that meets the definition of "directory information" as that term is defined in FERPA; and
11. To the parent of a student who is not an eligible student or to the eligible student.

Several of the disclosures permitted without first securing the consent of the parent or the eligible student have detailed requirements to meet before the student's education record may be released. It is critical that any District personnel charged with the responsibility of releasing student education records ensure the release is completely in accordance with the FERPA requirements. The specific section in the FERPA regulations that addresses release of information without the consent of the parent or eligible student is 34 CFR 99.31. Please refer to this section and ensure that all requirements are met before records are released. District personnel with any questions about the release of confidential information should consult with the Custodian of Records in his or her school building.

In addition to the FERPA regulations, the FERPA statute was amended in "The Uninterrupted Scholars Act" signed into law by the President in January 2013. The amendment to the FERPA statute provides the Department of Children and Families, which is the child welfare agency in Connecticut, direct access to children's education records. DCF workers will be able to access educational records in a timely fashion to ensure children in their care are immediately and appropriately enrolled in school and receive the supports and interventions they need for educational success. This amendment also eliminates the need for duplicative notice to parents and the resulting delays in transferring student's educational records.

When the District reports the commission of a crime by a student with a disability to the appropriate authorities, the District transmits copies of the special education and disciplinary records of the student for consideration by

the authorities to whom the crime is reported to the extent allowed by the Family Educational Rights and Privacy Act (FERPA), which may require parental consent before the records are provided.

Record of Access

The District maintains a record of the parties that have accessed a student's education record. With the exception of parents and authorized employees of Berlin, everyone who reviews a student's educational record is documented in the record of access. The record of access includes the name of the party having access, the date access was given, and the purpose for which the party was authorized to use the records.

Disciplinary Information

Sections 10-233c and 10-233d of the Connecticut General Statutes concerning suspension and expulsion require that notice of the suspension or expulsion and the conduct for which the student was suspended or expelled must be included on the student's cumulative record.

Berlin includes in the records of a student with a disability, a statement of any current or previous disciplinary action that was taken against the student. Berlin includes this statement to the same extent that this information is included in a non disabled student's records as is required by Section 10-233c and 10-233d. The statement may include a description of the disciplinary action taken and any other information relevant to the safety of the student and other individuals involved with the student. If the student transfers from one school to another, the transmission of any of the student's records must include current and previous disciplinary action that has been taken against the student.

"No Child Left Behind" (NCLB) requires that States have in place procedures to facilitate the transfer of disciplinary records relating to a suspension or expulsion to any private or public elementary or secondary school in which the student is subsequently enrolled, seeks to, intends to, or is instructed to enroll. This is accomplished in Connecticut by including notice of the suspension or expulsion on the student's cumulative record and allowing the transfer of records without parental consent, which would include the transfer of disciplinary records, See the discussion on Section 10-220h above.

When the District initiates disciplinary procedures applicable to all students, the District ensures that the special education and disciplinary records of the student with a disability are transmitted for consideration to the person or persons making the final determination regarding the disciplinary action.

Referral to and Action by Law Enforcement and Judicial Authorities

The District reports criminal acts committed by a student with a disability as it does crimes committed by students without disabilities. When the District reports a crime committed by a student with a disability to the appropriate authorities, the District transmits copies of the special education and disciplinary records of the student for consideration by the authorities to whom the crime is reported to the extent allowed by the Family Educational Rights and Privacy Act (FERPA), which may require parental consent before the records are provided.

Parental Rights

Parental Inspection and Review of Educational Records

Parents (including eligible students and surrogate parents) have the right to inspect and review all education records pertaining to their child that are collected, maintained, or used by the District. The District presumes the parent has the authority to inspect and review records relating to their child unless it has been advised the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

A parental request to review and inspect education records must be in writing. The District shall comply with a request to review and inspect the child's education records without unnecessary delay and before any meeting regarding an IEP or any due process hearing or resolution session held in accordance with the IDEA; otherwise, the District shall comply with such request not later than 10 school days of such request. A representative of the parent may inspect and review the records, so long as the parent has signed consent for such representative to review the records. The District will provide to parents an explanation and an interpretation of their child's records upon parental request. The District provides to parents, upon request, a list of the types and locations of education records collected, maintained, or used by the District.

Cost for Records or Search and Retrieval

In Connecticut, the right to review and inspect student records includes the right to one free copy of the records for students eligible for special education and related services or awaiting an eligibility determination. Parents are required to submit a written request for copies of records; the District must comply with the request for a copy of the records not later than 10 school days of the request. The District may charge for additional copies if the fee does not effectively prevent parents from exercising their right to inspect and review the records. The District does not charge parents a fee to search for or to retrieve the educational records of a special education student.

NOTE: While test instruments are considered education records, any test instrument or portion of a test instrument for which the test manufacturer asserts an ownership or copyright interest may not be copied, although they may be reviewed and inspected by parents. The District must respond to reasonable requests from the parent for explanations and interpretations of the student's education record, which may include reviewing copyrighted testing instruments.

Limitations of Parents' Rights of Inspection and Review

Review and inspection of student records is restricted to information concerning the parent's own child. If a student education record includes the names of more than one student, the parents of that student have the right to view information pertinent only to their child, or to be informed of that specific information.

Rights of Eligible Students

A student who has attained 18 years of age, an emancipated minor, or a student who is attending a postsecondary education institution has the right of access to his/her educational records, is afforded the right to privacy concerning the education records and is entitled to have the District maintain the confidentiality of the student's education records.

The rights of parents regarding educational records under FERPA are transferred to the student at age 18 or when the student is attending a postsecondary institution. Likewise, the rights given to parents under IDEA Part B are also transferred to a student who reaches age 18. When a student with a disability reaches age 18 (this includes those students incarcerated in an adult or juvenile, state or local correctional institution, but excludes those who have been determined to be incompetent under State law) the District does the following:

- Provides all required notices to both the student and the parents;
- Transfers to the student all other rights accorded to the parents under IDEA Part B;
- Notifies the student and the parents of the transfer of rights; and
- Transfers the rights regarding education records to the student.

Surrogate Parent

The rights of a student are protected by the appointment of a surrogate parent in the following circumstances:

- When the student requires or may require special education or when the student who required special education no longer requires such education but requires or may require services under Section 504 of the Rehabilitation Act of 1973; and
- When the parent cannot be identified after the District has made reasonable efforts to discover their whereabouts; or
- When the student is under the guardianship of the Commissioner of the Department of Children and Families; or
- When the Commissioner of the Department of Children and Families is the student's statutory parent; or
- When the student is an unaccompanied homeless youth as defined by the McKinney Vento Homeless Assistance Act.

The surrogate parent has legal rights afforded to parents or guardians with respect to special education and related services. The surrogate parent represents the student in all matters relating to the identification, evaluation, and educational placement and the provision of a free appropriate public education (FAPE) to the student. In the above instances, notice to the District that the student may need the appointment of a surrogate parent by the CSDE is issued from the Department of Children and Families (DCF) if they have been involved in the student's placement. The District will request from the CSDE the assignment of a surrogate parent. It's important to remember that when a student is involved with DCF, multiple individuals may be attending the student's PPT meeting, including the student's parents. Once a surrogate parent is appointed, the surrogate parent has the sole authority to make decisions regarding the student's education.

Amendment of Student Records

In accordance with Berlin Board of Education Policy 5125 and 5125R, Confidentiality and Access to Education Records, parents or eligible students may request in writing that the District amend the student's or their own (if the student is over 18 years of age) education record if they believe that information in the education record is inaccurate, misleading, or violates the privacy rights of the student. Board Policy 5125 and 5125-R, outlines the process and procedure for review of requests for amendment and hearing rights in accordance with the FERPA.

Record Maintenance and Destruction of Records

The District's special education department notifies parents or eligible students when personally identifiable information, which was collected, maintained, or used under IDEA, is no longer relevant to the provision of educational services to a student and the District plans to destroy the information. Records are no longer relevant to the provision of educational services to a student when the minimum retention period as recommended by the State of Connecticut is achieved. (See Municipal Records Schedule for Educational Records (Schedule M8) at <http://ctstatelibrary.org/wp-content/uploads/2015/07/M8.pdf> . Before destroying the information, the District requests permission from the state to destroy the records, notifies parents and eligible students of the planned destruction of records, and reminds parents that they or their child may need the information for Social Security benefits or other purposes in the future, such as securing services from an adult service provider.

Parents may also request that the records be destroyed if the minimum required retention period for the particular record has lapsed. The record must be maintained for the minimum state retention period. The District is required to keep a permanent record of a student's name, address, and phone number, his or her transcripts, attendance record, classes attended, grade level completed, and year completed. Those records may be maintained without time limitation. Note: The state Record Retention Schedule sets a 50-year minimum retention period for these types of records; however, the District may maintain these records for a longer period if it so chooses. If there is an outstanding request to inspect the records, the records to be inspected will not be destroyed until that request is satisfied.

Records of students placed by the District in regional education service centers (RESCS) and approved private special education programs are education records. Therefore, retention and destruction of this information is the obligation of the District. Berlin notifies parents/guardians of the location of records that are maintained by these agencies and parents have access to the copy.

District personnel with questions or concerns regarding about destroying or discarding educational records should consult with their school-based Special Education and Student Services (SESS) Facilitator.

Resources for Chapter Two

- Berlin District Policy for Education Records Family Educational Rights and Privacy Act (FERPA) Regulations can be located on the Berlin Website.
- Sending Education Records to Proposed Out-of-District Placements Without Parent Consent, State Department of Education Bureau Bulletin, December 24, 2014.

CHAPTER THREE - WRITTEN NOTICE, PRIOR WRITTEN NOTICE (PWN) AND PARENTAL CONSENT

Written Notice–General Background

Parents and eligible students are provided written notices at specific points throughout the special education process. Students age 18 or older who have not been determined to be incompetent under state law are referred to as (an) “eligible student(s).” As used in this chapter, “parent” includes the term “eligible student.”

The activities or events that require the District to provide written notice to the parents are identified in the IDEA and Connecticut regulations. For example, written invitations to PPT meetings and notification of a referral to special education are events that require notice to parents.

Further, Parents must be provided with a full explanation of the procedural safeguards available under the IDEA and the Connecticut regulations at certain designated times. A copy of the safeguards must be given to the parents one time each year and also when the following occurs:

- The parent or the school district asks for an evaluation for the first time.
- The parent asks for a copy of the procedural safeguards.
- The parent requests a due process hearing or files a state complaint for the first time in the school year.
- A decision is made to take a disciplinary action against the student that is a change in placement.

The District offers parents the option of receiving documents by electronic mail, including: Prior Written Notice (PWN), Procedural Safeguards Notice and notices related to a due process hearing.

Transfer of Rights When a Student is 18

Berlin sends all required notices to both the eligible student and the parent when a student reaches age 18. The District notifies both the parent and the eligible student of this transfer of rights. The transfer of rights to the student may not occur if the student is determined incapacitated by a court, if the student has authorized another adult to make educational decisions using a power of attorney issued by a court, or if the student has provided in writing that the parent shall continue to make all educational decisions. In addition, if a student age 18 or older has not been determined to be incapacitated by a court, the student may be certified as unable to provide informed consent and make educational decisions, and an educational representative may be appointed by the Berlin Board of Education. In this case, the notice goes to the Educational Representative.

Communication of Written Notice

Berlin communicates all written notices in a language understandable to the general public. Notice is provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, Berlin will take steps to ensure that there is written evidence that the notice is translated orally or by other means to the parent and that the parent understands the content of the notice.

Prior Written Notice (PWN)

PWN is a document that the District provides to the parent after a PPT meeting. This document serves to notify the parent, in writing, not later than 10 school days before Berlin proposes to or refuses to initiate or change the student's identification, evaluation or educational placement or the provision of a free appropriate public education ("FAPE") to the student. PWN may be provided to the parent at the PPT meeting and the parent and the District may agree that the proposed action may be implemented immediately or a time less than 10 school days.

Graduation from high school with a regular high school diploma is considered a change in placement. Because such graduation is considered a change in placement, PWN must be provided before the student graduates. The term "regular high school diploma" does not include alternative degrees such as certificates of attendance or completion of a general educational development credential (GED).

The PWN will have the following information: [Page 3 of ED 620]

- Description of the action proposed or refused by the PPT;
- Explanation of why the PPT proposes or refuses to take the action;
- Description of any options the PPT considered and the reasons those options were rejected;
- Description of each evaluation procedure, test, record, or report Berlin used as a basis for the proposal or refusal;
- Description of any other factors relevant to the PPT's proposal or refusal; and
- Statement that a parent or eligible student has the right to protection under procedural safeguards.
- If this notice is not an initial referral, PWN will include a description of how the procedural safeguards can be obtained. The PWN will include sources to contact for help in understanding the provisions of IDEA.

The PWN is provided in a language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication is not a written language, the District will take steps to ensure that there is written evidence that the notice is translated orally or by other means to the parent and that the parent understands the content of the notice.

Additional Situations Requiring Notice

In addition to the above information, the IDEA requires notice be given to the parents for a disciplinary removal from school or classes that results in a change of placement. This is not Prior Written Notice (PWN) as described above and as mentioned earlier. The notice of a disciplinary action which results in a change in placement for the student must be accompanied by a copy of the Procedural Safeguards document.

The Connecticut regulations also require that notice be given to parents and eligible students in other situations in the special education process as described below. This notice is not PWN as described above, but for each situation that requires notice, there is a set of required components.

Referral

The District notifies parents and eligible students in writing no later than five school days after the date of a referral to special education. The notice contains the following elements:

- Reason for notice
- Source of the referral for special education
- Date of the referral
- Statement of parental or eligible student's rights to view and obtain copies of all records used as a basis for referral
- Notice of the right to request a meeting with a knowledgeable district staff member to discuss the PPT process and concerns about your child

A full explanation of all procedural safeguards available to the parent is sent with the referral notice.

Convening of a PPT Meeting [ED 623]

At least five school days prior to a meeting to develop, review or revise a student's Individualized Education Program (IEP), the parent is advised in writing, in her or his native language, of the right to participate as a member of the PPT.

The elements of the notice include:

- The purpose for the PPT meeting;
- A time and location of the meeting with a statement that the meeting can be rescheduled at a mutually agreed upon time and place;
- Who will be in attendance and who will be invited to the meeting; and
- An indication that parents or eligible students can bring anyone of their choosing to the meeting

If the purpose of the PPT is to develop transition goals and objectives as part of the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the PPT, the notice of the PPT indicates:

- The purpose of the meeting;
- That the student is invited;
- Identification of any other agency that will be invited to send a representative with the written consent of the parent (also see chapter five, page two); and
- All other PPT meeting notice elements listed above.

Notice and Consent to Conduct an Initial Evaluation [ED 625]

The notice to secure (original) consent for an initial evaluation includes the elements of PWN and the following elements:

The reason for notice;

- A description of each evaluation procedure, test, record or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;
- A statement that parents or eligible students have the right to refuse consent and that, if given, consent may be revoked at any time;
- A statement that if parents or eligible students contest the evaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- A statement that failure to respond within 10 school days from the date of the consent notice

shall be construed as refusal of consent;

- An indication that a copy of the procedural safeguards document is included with the notice;
- Parents or eligible students have the right to request evaluation reports used to determine eligibility three days prior to the eligibility PPT meeting.

Notice and Consent to Conduct a Reevaluation [ED 627]

In addition to the elements of PWN, the reevaluation notice must include:

The reason for notice;

- A description of each evaluation procedure, test, record, or report to be given or created;
- A statement that parents or eligible students have the right to obtain an independent evaluation as part of the evaluation process;
- A statement that parents or eligible students have the right to refuse consent and that, if consent is given, it may be revoked at any time;
- A statement that if parents or eligible students contest the reevaluation through due process procedures, the student's current educational placement will not change until due process procedures have been completed;
- An indication that parents or eligible students will receive a copy of the evaluation report and documentation of determination of eligibility.
- Parents and eligible students are notified when no additional data is needed for reevaluation and they are informed of that decision, the reasons for it, and their rights to request an assessment to determine whether the student continues to be a student eligible for special education.

Disciplinary Situations That Result in a Change in Placement

In disciplinary situations, parents are notified no later than the date on which a decision is made to take an action that may or will result in one or more of the following, which constitutes a change in placement that requires notification to the parent:

- The student will be placed in an appropriate interim alternative educational setting for reasons of weapons, drugs, or serious bodily injury (see "Discipline" Chapter).
- A hearing officer has ordered a change in the placement of a student to an appropriate interim alternative setting.
- The student will be removed from school for a period of time that would be considered a change in placement (more than 10 days of suspension or a pattern of behavior that results in a total of more than 10 days suspension)

In addition to required notice, in Berlin, parents are also provided a copy of procedural safeguards in cases of disciplinary removals or anytime any such removal occurs.

Timelines for Prior Written Notice (PWN)

The District provides parents and eligible students with written notice 10 school days before the PPT proposes to, or refuses to, initiate or change the identification, evaluation or educational placement of the student or the provision of FAPE to the student. The written notice that is required explains the decisions of the PPT and is provided after the PPT meeting at which the PPT proposes to, or refuses to, initiate or change the student's

identification, evaluation, or educational placement, or the provision of FAPE to the student and before the District changes or refuses to change the student's identification, evaluation, or educational placement or the provision of FAPE.

There are two options for providing PWN to parents. The first option is to give the PWN at the PPT meeting. The PPT, which includes the parents, may agree on an implementation date for the actions being proposed by the PPT; such agreement must be noted on page two of the IEP and the agreed-upon implementation date must be noted on the PWN. The CSDE recommends that districts use this first option in providing parents with PWN.

The second option is for the District to send the PWN with the IEP, which must be sent within five school days after the PPT meeting where the action was discussed. As with the first option, the team and the parents may agree to an implementation date, which agreement must be noted on page two of the IEP. If there is no agreement, the date for the implementation of the IEP is 10 school days from the date the PWN was provided to parents, which is likely 15 school days after the PPT. Adherence to these timelines is mandatory.

Informed Parental Consent

In accordance with IDEA, Berlin requires informed parental (or eligible student) consent prior to an initial evaluation, reevaluation, and an initial provision of special education services and release of confidential educational records under specific conditions (see Confidentiality).

Informed Consent means that the parent (or eligible student):

- Has been fully informed of all information relevant to the activity for which consent is sought.
- This information is given to the parent or eligible student in his or her native language, or other mode of communication unless it is clearly not feasible to do so;
- Understands and agrees in writing to the carrying out of the activity for which her or his consent is sought. The consent describes that activity and lists the records (if any) that will be released and to whom they will be released; and
- Understands that the granting of consent is voluntary and may be revoked at any time.

Obtaining Parental Consent

In Berlin, parental (or eligible student) consent is obtained prior to an initial evaluation and reevaluation and the initial provision of special education services. Consent for initial evaluation is not construed as consent for initial provision of special education services. Parents (or eligible students) may not object to the inclusion in an initial evaluation or reevaluation of the following:

- review of existing data, or
- testing or other evaluation that is administered to all students, unless before administering that test or evaluation, consent is required of parents of all students.

Under the state regulations, if the parent does not respond to the request for written consent within 10 school days, the parent has effectively refused to give consent for the initial evaluation, reevaluation or initial receipt of special education services. The District must make reasonable efforts to secure parental consent for the initial evaluation, reevaluation, or initial receipt of services and document all attempts it makes to secure parental consent for the initial evaluation, reevaluation, or initial receipt of services.

Documentation of attempts could include the following activities:

- Detailed records of telephone calls made or attempted and the results of these calls;
- Copies of correspondence sent to the parents (or eligible student) and any responses received;
- Detailed records of visits made to the parent's (or eligible student's) home or place of employment and the results of those visits.

If the parent refuses consent, the District may, but is not required to, pursue due process to conduct the initial evaluation or reevaluation without parental consent.

Parental Refusal for Consent or Withdrawal of Consent

If a parent (or eligible student) revokes consent, that revocation is not retroactive. Therefore, it does not negate an action that has occurred after consent was given and before consent was revoked.

The District does not use a parent's (or eligible student's) refusal to consent to one service or activity to deny the parent or student any other service, benefit or activity in the District.

If a parent (or eligible student) refuses or withdraws consent in the case of an initial evaluation or reevaluation, the District may continue to pursue these PPT decisions by using due process, including mediation. If a hearing officer upholds the PPT decisions, the District may evaluate or reevaluate without parental consent.

If a parent (or eligible student) refuses consent or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the District is prohibited from using due process, including mediation, in order to obtain agreement or a ruling that the services may be provided to the student.

If the District recommends a private placement for the student and the parent disagrees, the student will be placed in the private placement unless the parent files for a due process hearing, or the District and the parent agree to some other placement pending due process. Under the recent revisions to the state regulations, parental consent for a private placement is no longer needed.

Consent Forms

All consent forms in Berlin include:

- A statement of parents' (or eligible student's) right to refuse consent and that, if given, it may be revoked at any time;
- A statement that parental (or eligible student's) failure to respond within 10 school days from the date of the notice shall be construed as refusal of consent (not applicable to reevaluation); and
- A statement that, if contested, a student's current educational placement will not change until due process procedures have been completed.

Procedural Safeguards

The CT State Department of Education's procedural safeguard document provided to parents (or eligible students) includes the following:

- Evaluation of a child by a person who does not work for the Berlin Public Schools. This is called an Independent Educational Evaluation (IEE)
- Giving the parent a copy in writing of what the school is proposing or refusing to do about a child's program (prior written notice – PWN)
- Getting parent permission before the school administers evaluations or provides special education services to a child
- Inspecting, reviewing, and obtaining a copy of a child's educational record
- Due process hearings
- Advisory opinions
- A child's program during the pendency of a due process hearing
- Procedures when disciplining a child with a disability
- Steps a parent must follow if a parent places a child in a private school and expects the school to pay
- Mediations
- Expedited due process hearings
- Bringing a case to court
- Attorneys' fees
- State complaints
- The difference between due process hearings and state complaints
- Electronic Mail

Communication of Procedural Safeguards

The procedural safeguards available to parents (or eligible students) is provided in the native language of the parent (or eligible student) or other mode of communication used by the parent (or eligible student) unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent (or eligible student) is not a written language, Berlin takes steps to ensure that the procedural safeguards are translated orally or by other means to the parent (or eligible student) in his or her native language or other mode of communication that the parent (or eligible student) understands. Berlin ensures that the parent (or eligible student) understands the content of the procedural safeguards and that there is written evidence that these requirements have been met.

Parental Notification / Laws Relating to the Use of Seclusion and Restraint

Berlin is required by state statute to inform parents about provisions of the state statutes and regulations regarding the emergency use of physical restraint and seclusion. Every parent must be advised of these rights at the initial PPT meeting held for their child even if the emergency use of physical restraint or seclusion, is not likely to occur with their child.

Restraint and/or seclusion should be used with students only as an emergency intervention. Seclusion may be used on a student's IEP or BIP under specific circumscribed cases. Berlin staff is expected to adhere to all policies and procedures regarding to the emergency use of restraint and/or seclusion, in accordance with state and federal law, as these laws and regulations may be updated from time to time.

Resources for Chapter Three:

- **IEP Manual and Forms:**
- <https://www.google.com/url?q=http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/IEPManual.pdf&sa=U&ved=0ahUKEwixtOvJooTWAhVO6Z8KHQLrBSIQFggFMAA&client=internal-uds-cse&usg=AFQjCNFENVtbD-QL34hJv9rvSADpkZtTDw>
- Prior Written Notice (page three of the IEP document)
- Berlin Notice of Referral to Determine Eligibility for Special Education and Related Services (ED 622)
- Berlin Notice of Planning and Placement Team Meeting (ED 623)
- Berlin Notice and Consent to Conduct an Initial Evaluation (ED 625)
- Berlin Consent for Special Education Placement (ED 626)
- Berlin Notice and Consent to Conduct a Reevaluation (ED 627)
- Procedural Safeguards Notice Required Under IDEA Part B Located at: <http://www.sde.ct.gov> Click Special Education under Quick Links, Click Legal/Due Process, Click Procedural Safeguards Notice 2009
- Parental Notification of the Laws Relating to Seclusion and Restraint in the Public Schools Located at: <http://www.sde.ct.gov>. Click Special Education under Quick Links, Click Legal/Due Process, Click 2009 Parental Notification
- BOE Policy on Restraint/Seclusion 5142 and 5142-R

CHAPTER FOUR - EVALUATION AND REEVALUATION

Background

Berlin uses procedures to ensure that proper identification of students with disabilities occurs through the implementation of sound evaluation practices. Evaluation in this context means the procedures that Berlin uses to determine whether a student meets the criteria for identification as a student with a disability and whether a student is eligible for special education and related services. Evaluation also provides information to the Planning and Placement Team (PPT) that allows the team to determine the nature and extent of the special education and related services to provide to the student in order for the student to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE).

If the District suspects that the student may have a disability requiring special education and related services, a full and individual initial evaluation is conducted before any action is taken with respect to the student's initial receipt of special education and related services.

The procedures for collecting and reviewing evaluative data for a reevaluation are the same as those used for the initial evaluation. A reevaluation is conducted if conditions warrant, or if a student's parent or teacher requests a reevaluation. In any event, a reevaluation must be conducted at least once every three years to determine the student's continuing eligibility for special education and the nature of the services to be provided, unless the parent and the District agree that it is unnecessary. In addition, a reevaluation will not be conducted more frequently than once a year unless the parent and the District agree otherwise.

Process

Pre-Referral: General Education Interventions Process

Before Berlin personnel refer a student to a PPT, alternative procedures and programs in general education are explored and implemented where appropriate. Each school has a Child Study Team (SAT, SHARES, IDT) that provides a variety of alternative strategies to the teacher. Interventions in general education may include instructional or behavioral strategies that address the student's concerns. Parental consent is not required for general education interventions.

Parents or school personnel may request assistance from the school's Child Study Team, which works collaboratively with the classroom teacher and parents to develop and document strategies that assist the student within the general education program. If the student's problems or difficulties persist, a prompt referral to a PPT is made.

Multi-tiered Intervention Process

Additionally, initiatives in general education programming such as Scientific Research-Based Interventions (SRBI) are designed to emphasize successful instruction for all students through the differentiation of instruction in the classroom. Differentiated instruction provides opportunity to maximize progress for all students in the

classroom by addressing differences in student learning and adapting instruction and materials to meet their needs. SRBI emphasizes high quality core general education practices, as well as targeted instruction for students experiencing learning, social-emotional or behavioral difficulties.

http://www.sde.ct.gov/sde/lib/sde/pdf/pressroom/SRBI_full.pdf There is no requirement for parents to consent to SRBI because it is part of the general education program at every school.

SRBI are designed to ensure that all students attending the Berlin Public Schools receive appropriate instruction by collecting critical information about the student's instructional strengths and needs and using this information to create effective, research-based instructional interventions in general education with frequent monitoring of student progress. The district is required to try interventions in the general education curriculum before a referral is made for special education evaluation. If the student's difficulties persist, a prompt referral to a PPT is made. The District can and should refer students for evaluation at any time, including **during** the intervention period if a disability is suspected.

A parent may make a referral at any time for a special education evaluation regardless of where the District is in the intervention process. The District must hold a PPT meeting to consider any referral. The District will continue the general education interventions even though a referral for special education evaluation has been made.

Initial Evaluation: Referral to Determine Eligibility for Special Education and Related Services [ED 621]

If the general education strategies are not successful, or if the parents make a written request for an evaluation, a student is referred to the PPT to determine eligibility for special education and related services. A Berlin standard referral form [ED 621] is used to document the referral. This form is available to parents and school personnel in each of the schools and at the Special Education Department Office. Parents receive notice of the referral within five school days of the date of the referral, regardless of who makes the referral.

A parent is not required to submit the standard referral form for a referral for an initial evaluation. A concern expressed in writing by the parent to supervisory or administrative personnel or the student's teacher that the student be referred for an initial evaluation is a referral and is to be processed as a referral. The District accepts as a referral a written request from the parents that clearly indicates a concern that the student may be a student with a disability and should be discussed at a PPT and may be evaluated for special education identification and services. If a parent makes a referral but does not complete the referral form, District personnel shall complete the referral form. The date of the referral shall be the date the written concern is received from the parent, not the date the form is completed by the District.

Role of the Planning and Placement Team in Evaluation or Reevaluation

Once a referral for an initial evaluation is made, a PPT meeting is scheduled to discuss the referral. Parents receive written notification of the referral for a special education evaluation and written notice of the PPT meeting five school days prior to the meeting in the form of an invitation to the PPT meeting. The District makes reasonable efforts to schedule PPT meetings at mutually convenient times and locations for the District and the parents. The District will consult with parents on scheduling PPT meetings.

Upon the request of the parent, and prior to the PPT where the initial evaluations are planned and discussed, the District must provide the parent with an opportunity to meet with a member of the PPT. The sole purpose of this

meeting is to discuss the PPT process and any concerns the parent might have about their child.

As part of the initial evaluation and any reevaluation, the PPT must review existing data on the student, including evaluations and information provided by the parents, current curricular, local or state assessments, classroom based observations, and observations by teachers or related service providers as well as attendance, disciplinary, health/nursing data, etc. Once the review is completed and the parent's input is considered, the PPT must decide if there is a reason to suspect the student has a disability that is adversely impacting the student's education. The PPT may decide an evaluation is not needed and the general education program and services are appropriate.

If the PPT decides that there should be an eligibility determination for special education and related services, or in the case of a reevaluation, a determination as to the student's continuing eligibility for special education and educational needs, the PPT must determine, based on the review of existing data and the parent's input, whether or not there is enough data to determine if the student is a student with a disability who requires special education and related services. The PPT may, based on the existing data, determine the student is such a student and find the student eligible for special education and related services. There must be data that allows the PPT to find the student eligible and determine his/her educational needs so an IEP that offers the student FAPE can be developed and implemented. If the PPT determines there is not enough data to make the decision, or there is not enough data to develop an IEP that offers the student FAPE, the PPT will design evaluations to determine eligibility for special education or support the development of an IEP.

During the PPT discussions regarding reevaluation, if the PPT decides that no additional data is needed to determine whether the student continues to be a student with a disability requiring special education, the District provides the student's parents with PWN. (See chapter on "Written Notice, Prior Written Notice (PWN) and Parental Consent" for all requirements regarding notice.)

The District also notifies the parents of their right to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs. The District is not required to conduct an assessment to determine continuing eligibility for special education unless requested by the parents.

If the PPT decides additional data is needed to determine the student's eligibility and educational needs, or in the case of a reevaluation, to determine the student's continuing eligibility for special education and related services and educational needs, the PPT, which includes the parent as an integral member, designs the evaluation.

Parents must give consent for the initial evaluation and are asked to give written consent by signing the Notice and Consent to Conduct an Initial Evaluation, (ED 625). Parents must also give consent for the reevaluation and are asked to give written consent by signing the Notice and Consent to Conduct a Reevaluation, (ED 627). Please refer to the chapter on "Written Notice, Prior Written Notice, and Parental Consent" for more specific information on consent. Written consent signed by a parent is required to evaluate or re-evaluate.

Under state regulations, if the parent does not respond to the request for written consent within 10 school days, the parent has effectively refused to give consent for the evaluation or reevaluation. Unlike the IDEA requirements, the District may not evaluate or reevaluate the student without parental consent. The District must make reasonable efforts to secure parental consent, and all attempts should be documented. For more specific information, see the chapter on "Written Notice, Prior Written Notice and Parental Consent."

After the initial evaluation or reevaluation, the PPT makes the determination of whether the student is a student with a disability and in need of special education. Upon the parent's request, the District must provide the parent

with copies of the assessment and evaluation results that will be considered in determining the student's eligibility for special education at least three school days prior to the PPT meeting where they will be discussed. This only applies to the initial determination of eligibility. If the parents do not make this request, they are provided with a copy of the evaluation report at or prior to the PPT meeting.

If the student is found eligible for special education, the development of the Individualized Education Program (IEP) for the student is based on the diagnostic findings of the evaluation study and the student's present level of academic achievement and functional performance. Implementation of the IEP based on an initial referral is not to exceed 45 school days from the date of referral, or 60 school days for students placed in a private school by the PPT to meet their educational needs, exclusive of the time necessary to secure written parental consent for the initial evaluation and initial receipt of special education and related services.

After each meeting where the evaluation or reevaluation is discussed by the PPT, the parent will receive prior written notice (PWN) before the District takes the action as discussed by the PPT. Please refer to the chapter on "Written Notice, Prior Written Notice and Consent" for a full explanation of prior written notice for evaluation or reevaluation.

Students Transferring into the District

Evaluations of students with disabilities who transfer from one school district to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible, to ensure prompt completion of full evaluations.

If the records of a new student indicate the student has been identified as a student with a disability and requires special education and related services, the student, once enrolled, is provided a free appropriate public education including services comparable to those described on the student's Individualized Education Program (IEP). A Planning and Placement Team (PPT) meeting must be held at the earliest possible opportunity to review and revise, where appropriate, the student's IEP. Berlin typically holds a PPT within 30 school days.

Interpretation of Evaluative Data in Making Educational Decisions

The PPT must interpret the evaluation data to determine if a student has a disability requiring special education and what the student's educational needs are. Berlin uses information from a variety of sources, which may include but is not limited to aptitude and achievement tests, district assessment and universal screenings, parent input, classroom observations or other observations, teacher recommendations, physical condition, social or cultural background, and adaptive behavior.

Reevaluation

In addition to determining the student's continuing eligibility for special education and related services and the student's educational needs, (for procedures, see above) the reevaluation provides information that will help the PPT determine if any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

Ongoing Evaluations of Student Performance (Including Progress Reporting and Evaluation Prior to Termination of Special Education Eligibility)

Student performance is continuously evaluated to determine whether or not the student is achieving satisfactorily in the general education curriculum and meeting the goals and objectives in the IEP. Each student's IEP describes a variety of evaluation procedures and performance criteria that allows the PPT to determine progress on the goals designed to address the student's educational needs.

In addition to evaluating student progress in the general education curriculum and on achieving the goals of the IEP, a student's IEP may also contain a set of "exit" criteria to determine when and if a student is no longer eligible for special education and should be exited from special education eligibility and no longer receive special education and related services. An evaluation before the termination of a student's eligibility for special education and related services is not required if the student graduates with a regular high school diploma or exceeds the age of eligibility for FAPE under state law.

Signed parental consent is not required to monitor student progress on goals and objectives or student performance in curriculum based materials. Consent is required for any assessment that is designed to assist in a determination regarding a student's eligibility for, or changes to the nature or extent of, special education instruction.

Evaluation for Determination of Eligibility and Receipt of Special Education and Related Services

An evaluation of a student in Berlin includes reports concerning educational progress, structured observation, and such psychological, medical, developmental, and social evaluations as may be appropriate to determine the nature and scope of the student's exceptionality if any. The evaluation study may include information concerning the student's physical condition, socio-cultural background, and adaptive behavior in home and school.

The evaluation report documents the sources of all information. In evaluating each student with a disability, Berlin's evaluation is sufficiently comprehensive to identify all the student's special education and related service needs, whether or not commonly linked to the student's disability category. A student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. No single procedure is used as the sole criterion to determine whether a student has a disability or to design an appropriate educational program for the student.

Results of standardized or local tests of ability, aptitude, affect, achievement, and aspiration are not exclusively used as the basis for determining whether a student is a student with a disability within Berlin. State eligibility worksheets are completed and used to determine eligibility in the following areas: Autism, Learning Disability, Intellectual Disability, Emotional Disturbance and Speech and Language Impairment. An evaluation study shall document and carefully consider the sources of all information.

Evaluation Tools and Measurements

Tests, evaluation materials, procedures, and techniques used for evaluation are chosen carefully to ensure accurate results. They are selected and administered so as not to discriminate on a racial or cultural basis. They are used to gather relevant functional, developmental, and academic information including: information

provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum.

For a preschool student, Berlin looks at information to enable the student to participate in appropriate activities. This information will help the PPT determine the student's disability status and needs and thus the content of the student's IEP.

The evaluation tools Berlin uses are administered according to instructions provided by the producers/publishers and have been validated for the specific purpose they are used. They are administered by trained and knowledgeable personnel who are appropriately certified or licensed. Berlin ensures they are technically sound instruments that may assess the relative contribution of cognitive, behavioral, physical, or developmental factors. The standardized evaluation tools and measurements that Berlin uses include those tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient. These assessment measures provide relevant information that directly assists in determining the student's educational needs. Standardized tests and measurements Berlin uses are selected and administered to ensure the test results accurately reflect the student's aptitude or achievement level or whatever factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills.

A Note on Functional Behavioral Assessments

There are times when the PPT needs to consider additional behavioral data to make decisions on eligibility and/or programming for a student. At such times a functional behavioral assessment (FBA) is done. An FBA is an "evaluation" for which signed parental consent is required if the purpose is to determine eligibility or the nature or extent of special education or related services.

In summary, a functional behavioral assessment includes:

- A clear description of problem behaviors, common patterns, and sequences
- The collection of data and indirect observational data regarding targeted behavior
- of events, times, and situations and predictions as to when behavior will or will not occur across the full range of a typical day
- Summary statements or hypotheses about behavior
- The manipulation and control of variables
- Desirable alternative behaviors that will achieve the same function as the challenging behavior

Language Issues in Evaluation

Assessments, evaluation material, procedures, and techniques used for evaluation are selected and administered so as not to be discriminatory on a racial or cultural basis. They are provided and administered in the student's native language and in a form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to do so.

If a student is dominant in a language other than English, the evaluation study also includes systematic teacher observation of the specific areas of concern. Detailed information about the student's performance at home and in the community and any prescriptive or diagnostic teaching that have taken place is included. Berlin uses a language dominance proficiency assessment prior to an evaluation when appropriate. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure they measure the extent to which the student has a disability and needs special education rather than measuring the student's English

language skills.

Independent Educational Evaluation (IEE)

Parents may request an independent educational evaluation (IEE) at public expense if the parents disagree with an evaluation completed or obtained by the District. The right to an IEE applies equally to an initial evaluation as it does to a reevaluation. Berlin provides to parents, upon request, information about where an IEE may be obtained and Berlin's criteria applicable for an IEE.

Consistent with the IDEA and 34 300.502, if a parent requests an IEE at public expense, Berlin will, without unnecessary delay, either:

- File a due process complaint to request a hearing to show Berlin's evaluation is appropriate; or
- Ensure that an independent educational evaluation is provided at Berlin expense, unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet District criteria.

It should be noted that if the District uses an outside evaluator to perform an evaluation, for example, a psychiatrist, or other evaluator not on the staff of the District, and the parent disagrees with the evaluation, the parent has the right to obtain an IEE at public expense unless the District files a due process complaint to request a hearing to demonstrate the appropriateness of the District's evaluation.

The parent is not required to request an IEE at a PPT meeting, nor is the District required to hold a PPT meeting to consider the parent's request for an IEE. The District may ask for the parent's reason for objection to the evaluation conducted by the District. The District may not require the parent to provide an explanation and may not unreasonably delay either providing the IEE or filing for due process to request a hearing to defend its evaluation.

The District may hold a PPT meeting to consider the parent's request and review the District's evaluation(s) being contested provided that any such meeting cannot be used to unnecessarily delay or interfere with the parent's right to obtain an IEE at public expense. ***The parent is entitled to only one IEE at District expense each time the District conducts an evaluation with which the parent disagrees.*** If the District files for a hearing in response to a parent's request for an IEE, and the final decision is that the District's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense.

When an IEE is at Berlin expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner and timelines, must be the same as the criteria Berlin uses when it initiates an evaluation. Berlin may not impose additional conditions or timelines beyond what Berlin uses. To preserve the parent's right to obtain an IEE, the criteria must allow exceptions in the event an IEE is needed that does not meet the usual standards. For example, the student's needs are so unique and the type of evaluator needed to perform an appropriate evaluation does not meet the District criteria.

If the parent obtains an independent educational evaluation at private expense, Berlin will consider the results in any decision on the provision of FAPE if the parent submits the evaluation to the PPT. The results of an IEE obtained by the parent at private expense may be presented as evidence at a hearing under the provisions of IDEA.

Evaluation: Trial Placement for Diagnostic Purposes

A trial placement for diagnostic purposes is an evaluation. This is generally referred to as a “diagnostic placement.” If at the end of the evaluation, the District and parents cannot agree on an appropriate program for the student and a request for a due process hearing is filed, the student cannot remain in the trial placement unless the District and parents agree to maintain the student in the placement pending due process.

The purpose of a diagnostic placement is to assess the needs of a student for whom special education and related services may be necessary, but for whom the evaluation or reevaluation is either inconclusive or the data insufficient to determine the student’s eligibility or to develop or revise the student’s IEP. A diagnostic placement is a structured program of not more than 40 school days duration, unless mutually agreed upon by the district and parents.

The following steps are implemented in Berlin when it has a student in a trial placement:

- 1 The PPT specifies, in writing, the diagnostic goals and objectives, as well as the types and amounts of services needed to conduct the program to determine more conclusively the student’s needs.
- 2 Parents and the PPT agree to designate members of the PPT. Such designated members meet at least once every 10 school days with personnel working with the student to discuss the student’s progress and to revise, where necessary, the services provided. The parents and the District may agree to meet less frequently, but any such agreement must be documented. The PPT decides whether the student’s time is divided between the trial placement and another program, or the student may be placed in the diagnostic program full time.
- 3 Five school days before the end of the trial placement, the PPT will re-convene and, if required, write the student’s IEP based on the findings during the trial placement, as well as other evaluative information on the student.

Chapter 4 Resources:

- <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322672>
- Berlin Multidisciplinary Evaluation Report for SLD (ED 629P)
- Berlin Reading Worksheet (ED 630)
- Berlin Mathematics Worksheet (ED 631)
- Berlin Written Expression Worksheet (ED 636)
- The following checklists are taken from the CSDE Guideline Documents
- Worksheet for Determination of Eligibility for Special Education Services Under the Classification of Autism:
- Intellectual Disability Eligibility Documentation located at:
http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/guide_intellectualdisability2007.pdf
- Planning and Placement Team Worksheet to Determine Eligibility due to an Emotional Disturbance
Located at http://www.sde.ct.gov/sde/lib/sde/pdf/publications/edguide/ed_guidelines.pdf
- Berlin Summary of Performance (ED 635)
- Mutual Agreement to Extend Evaluation Timeline for Determining Special Education Eligibility for a Student with a Specific Learning Disability (ED 637)

CHAPTER FIVE - PLANNING AND PLACEMENT TEAM

Background

The Planning and Placement Team (PPT) is the decision making body central of the process of ensuring that the student meets the eligibility requirements of the IDEA. It is through this process that the district ensures that students with disabilities receive a free and appropriate education.

Purpose of the PPT

The PPT meeting is initiated and conducted for the purposes of:

- Determining eligibility by designing and reviewing evaluations and reevaluations;
- Developing, reviewing, and revising the student's IEP;
- Addressing all of the student's academic and functional needs in the IEP components;
- Making placement decisions that ensure that a student with a disability, who is eligible for special education and related services is provided with a free and appropriate public education (FAPE) in the least restrictive environment (LRE)

In the context of PPTs called when a student with a disability may be subject to the school disciplinary code, the purpose of the PPT meeting also includes where appropriate, developing and reviewing a functional behavior assessments (FBA); developing, reviewing, or modifying a behavioral intervention plan (BIP); conducting a manifestation determination; and making an interim alternative educational placement decision.

See chapters on "Child Identification," "Evaluation and Reevaluation," "Individualized Education Program," "Least Restrictive Environment," and "Discipline" for a full explanation of PPT activities.

Occasions Where a PPT meeting is not required

The IDEA defines a "meeting" for purposes of determining if a full PPT meeting must be convened. The IDEA does not consider a meeting to be informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions. A "meeting" also does not include preparatory activities that district personnel engage in to develop a proposal or a response to a parent proposal that will be discussed at a later meeting. In preparation for a PPT meeting school staff may, and would be expected to, speak to each other about the student.

Parents and school staff are encouraged to communicate throughout the school year concerning the student's needs, including but not limited to implementation of the student's IEP, the student's progress and any questions or concerns that may arise. Parents and school staff may also meet informally, outside of the PPT process, to discuss these matters. Communication between parents and school staff is an important part of the education of the student.

These discussions do not constitute prior approval of proposed services to be included in the IEP. The PPT has the sole authority to determine the individualized service needs of each student.

PPT Timelines

The PPT reviews the student's IEP periodically, at least annually, to determine whether the goals are being achieved. The PPT revises the IEP, as appropriate, to address:

- Any lack of progress toward the annual goals and in the general curriculum;
- When goals have been mastered;
- The results of any reevaluation;
- Information about the student provided to, or by, the parents;
- The student's anticipated needs; and
- Other matters related to the provision of a FAPE to the student.

Parents must receive notice, usually provided in the form of a "Notice of Planning and Placement Team Meeting" (ED 623), which advises the parents of the date, time, location and purpose of the meeting, who has been invited and their role at the meeting, and contact information if the parent has any questions or wishes to reschedule the meeting. Notice of PPT meetings must be provided to the parents at least five school days prior to the meeting. The District makes every effort to schedule PPT meetings at mutually convenient times and locations for parents and school staff.

PPT Membership to Consider the Needs of a Student with a Disability

If the PPT is convened to determine the needs of a student with a disability, then the PPT is composed of:

- The child's parents;
- Not less than one regular education teacher of the child if the child is, or may be, participating in the regular education environment;
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child; · A representative of the District who-
 - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - Is knowledgeable about the general education curriculum; and
 - Is knowledgeable about the availability of District resources; (While it is not required that the representative of the District be an administrator, the District representative must be able to commit the resources of the District.)
 - An individual who can interpret the instructional implications of evaluation results, who may be a school staff member as described above; · At the discretion of the parent or the District, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; ·
- Whenever appropriate, the student with a disability.
- Parents also have the right to have a school paraprofessional participate in the PPT Meetings. Parents are informed of this right by the district annually, and on the district's website.

These are the same individuals who constitute the IEP team defined in the IDEA.

A parent is not required to provide the District with advance notice if they intend to bring an attorney, advocate, outside evaluations or evaluator/evaluations to the PPT or record the PPT. The district does, however, reserve the right to postpone the PPT in order to secure its own legal representation at the meeting. The spirit of the law presumes there will be reciprocal, ongoing communication and relationship-building on behalf of the student.

However, if the PPT is to be recorded by anyone attending the meeting, the participants must be informed before recording begins.

Both parties should notify each other of persons or documents they plan to bring to the PPT if the lack of prior notification might be a distraction from the student's needs.

PPT Membership for Out-of-District Placements

PPT meetings, conducted to review or revise the program for a student eligible for special education in an out-of-District placement, include a representative from that facility (in addition to the membership identified above) who contributes to the development of short-term instructional objectives and otherwise participates in the PPT process.

PPT Membership for Secondary Transition Considerations

If the meeting's purpose is consideration of secondary transition services, the student (regardless of age) and a representative of any agency that is likely to be responsible for providing or paying for transition services are also invited. Parents of minor students will ultimately decide if the student attends the PPT meeting. If the student does not attend the PPT, the District takes steps to ensure that the student's preferences and interests are considered.

Representatives of outside agencies may only be invited with the written consent of the parent or eligible student. Examples of outside agencies are: *The Bureau of Rehabilitation Services* and *the Department of Developmental Services*.

PPT Attendance [ED 633]

A PPT member may be excused from attending a PPT meeting or their attendance may not be necessary under the following circumstances:

- If the parent and the District agree in writing before the meeting starts that the school member's attendance is not necessary, in whole or in part, because that member's area of the curriculum or related service is not being modified or discussed in the meeting; · If the parent and the District agree in writing to excuse a school member, in whole or in part, from a PPT meeting when it involves a modification or discussion of the member's area of the curriculum or related service. **The school member of the PPT must submit written input to the parent and the District prior to the PPT meeting;**
- A parent's consent to a team member's absence from a PPT meeting, whether because their attendance is not necessary or they have been excused and have submitted written input to the parent and PPT, must be given in writing and on a form the District provides, the ED 633.

Parents and the District can mutually agree upon alternative means (such as conference calls, or video conferences) for school member participation in PPT meetings when school members are unable to attend in person.

Participants in the PPT meeting are determined by the reason for the PPT and will include those necessary to properly constitute the PPT. No teacher or related service provider is excluded from PPT participation

unilaterally by administration.

Role of the Regular Education Teacher in the PPT

The regular education teacher of the student (as a member of the PPT) will, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including input regarding:

- Appropriate positive behavioral interventions and strategies;
- Supplementary aids and services, program modifications or supports for school personnel that will be provided for the student consistent with the IEP; and
- Participation in the general education curriculum.

In addition, the teacher will be prepared to update the team on the student's general education program and provide the PPT with the most recent assessments to document the student's progress in the general education curriculum.

Parental Involvement in the PPT

The parents of a child with a disability are integral members of the team in determining whether their child is eligible for services and in developing the IEP and must be afforded the opportunity to be meaningful participants of the meeting. Requirements for parental participation in the development, revision, and implementation of the IEP are outlined in IDEA as follows:

The parents of a child with a disability are expected to be equal participants along with school personnel, in developing, reviewing, and revising the IEP for their child. This is an active role in which the parents:

- 1 Provide critical information regarding the their child's strengths and express their concerns for enhancing the education of their child;
- 2 Participate in discussions about the child's need for special education and related services and supplementary aids and services; and
- 3 Join participants in deciding how the child will be involved and progress in the general curriculum and participate in State and district wide assessments, and what services the district will provide to the child and in what setting. (Assistance to States for the Education of Children with Disabilities; 2002)

The District takes whatever action is necessary to ensure that parents understand the proceedings at the PPT meeting. This includes, but is not limited to, arranging for an interpreter for parents with deafness or whose native language is not English. Meetings are scheduled at a mutually agreed upon time and place. If neither parent can attend the PPT, the District makes reasonable efforts using other methods to ensure parent participation, including individual or telephone conference calls or home visits. If the parent(s) cannot be convinced they should attend a PPT meeting, the District will document the attempts to arrange a mutually agreed on time and place using form ED 624.

This documentation may include a record of phone calls made or attempted and results of those calls; copies of correspondence sent to parents and any responses received; and records of visits to the parent's home or place of employment and results of those visits.

PPT Responsibilities in the Development of the Individualized Education Program (IEP)

In developing, reviewing, and revising a student's IEP, the PPT considers the following:

- The student's strengths and the parent's concern for enhancing the student's education;
- The results of the initial evaluation and most recent evaluation, or the results of any reevaluations;
- The results of the student's performance on any general state or district wide assessment programs, as appropriate;
- The communication needs of the student;
- The academic, developmental, and functional needs of the student;
- Positive behavioral interventions, strategies, and supports to address behavior that impedes a student's learning or that of others;
- In the case of a student with limited English proficiency, the language needs of the student;
- In the case of a student who is blind or visually impaired, instruction in Braille and the use of Braille. The use of Braille and instruction in Braille is provided unless the PPT determines that neither of these is appropriate. The determination not to use Braille or not to provide instruction in Braille is made only after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media. This evaluation must also include an assessment of the student's future needs for Braille instruction;
- In the case of a student who is deaf or hard of hearing, the student's language and communication needs and opportunities for direct communications with peers and professional personnel, including the development of a Language and Communication Plan (ED 638) for a student who is deaf or hard of hearing. In addition, the PPT will consider the student's academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and
- Whether the student requires assistive technology devices and services.

If, in considering these factors, the PPT determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order to receive FAPE, the team will include a statement to that effect in the IEP. Beginning not later than the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the PPT, a student's IEP must include appropriate measurable postsecondary goals based upon age appropriate assessments related to training, education, employment, and where appropriate, independent living skills, and the transition services needed to assist the student in reaching those goals.

If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, Berlin reconvenes the PPT as soon as possible to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

For further information on the development of a student's IEP, please refer to the chapter entitled "Individualized Education Program."

PPT Responsibilities When Disciplinary Action Is Being Considered

Disciplinary Action

Students with disabilities are subject to the same disciplinary actions as their nondisabled peers. Procedural safeguards will be provided to parents, guardians and/or students with disabilities who exceed 10 days of suspension. When a student with a disability engages in behavior that is in violation of a code

of student conduct and the District has made a decision to remove the student from school, which results in a change of placement, the PPT is responsible for conducting a review of the relationship between the student's disability and the student's behavior to determine if the behavior is a manifestation of the student's disability (manifestation determination) or if the behavior was the direct result of the District's failure to implement the IEP. Please see the chapter on Discipline for further explanations.

Determination of Interim Alternative Educational Setting (IAES)

A student with a disability who is eligible for special education may be removed from school and placed in an interim alternative educational setting (IAES) for not more than 45 school days if the student:

- Carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under the District's jurisdiction;
- 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 District's jurisdiction; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the District's jurisdiction (see Discipline chapter for definition of "serious bodily injury.")

The PPT is responsible for determining the IAES to which the student is removed. See "Discipline" chapter for further explanation.

PPT for Gifted and Talented Identification

The identification of gifted and talented children is required under Connecticut special education law. Gifted and talented means a child identified by the PPT as (1) possessing demonstrated or potential abilities that give evidence of very superior intellectual, creative or specific academic capability and (2) needing differentiated instruction or services beyond those being provided in the regular school program in order to realize their intellectual, creative, or specific academic potential.

Parents must be notified in writing that a referral to the PPT has been made to determine a child's identification as gifted and talented. In this case, the PPT is defined as a "group of certified and/or licensed professionals, who represent each of the teaching, administrative, and pupil personnel staffs and who participate equally in the decision-making process."

The PPT must process the referral for an evaluation and review existing data to determine if the child may be eligible. If the PPT determines sufficient information exists to determine eligibility, further evaluation is not necessary.

Parents must be notified in writing when the student is referred for consideration and if the student has met the criteria for eligibility. Please refer to the chapter on "Child Identification" for a complete description of identifying and evaluating students who may be gifted or talented.

Chapter 5 Resources:

- Berlin Planning and Placement Team Attendance (ED 633)
- Berlin Documentation of Attempts to Seek Parent/Guardian Participation (ED 624)
- Language Communication Plan (ED 638) <http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/ED638.pdf>

CHAPTER SIX - INDIVIDUALIZED EDUCATION PROGRAM

Background

Berlin provides a free appropriate public education (FAPE) in the least restrictive environment (LRE) to all students with disabilities age 3 through the end of the school year in which the student turns 21 if they require special education and related services and have not graduated with a regular high school diploma or exceeded the age of eligibility. This includes students who are advancing from grade to grade. For students with disabilities who have been suspended or expelled from school, there are very specific requirements for providing FAPE. Please see the chapter on “Discipline” for these requirements.

In order to provide FAPE, an individualized education program (IEP) is developed for each child who is determined to be eligible for special education and related services. The services and placement provided for each eligible student are based on the student’s unique needs and not on the student’s disability. However, the disability label can be important in considering the scientific, research based instruction that may benefit the student. Through a team approach, with the child’s parent as a critical member, the IEP is developed, implemented, reviewed, and revised for all students eligible for special education and related services served by the District. This includes students placed in, or referred to, a private school or facility by the District. Special education and related services are provided in accordance with each student’s IEP. Please see below for further explanation of this process.

An IEP is developed before special education and related services are provided to an eligible student, except in the case of a “diagnostic placement” in special education, wherein the placement is used to conduct evaluation of the student’s need for special education and related services. Berlin implements each IEP within 45 school days of the initial referral for in-district placements during the school year and 60 school days for out-of-district or private school placements (in both cases exclusive of time needed to obtain any required parental consent).

At the beginning of each school year, an IEP must be in effect for each student with a disability who requires special education and related services.

Role of the Planning and Placement Team

Berlin develops a written plan for each student requiring special education and related services, called an Individualized Education Program (IEP). Every decision regarding the IEP is made by a team, called a Planning and Placement Team (PPT), except as noted above regarding the amendment of the IEP outside the PPT with the written consent of the parent and the District. At its meeting, the PPT develops, reviews, or revises the IEP to meet the needs of each student who requires special education and related services. In addition to school staff, parents of the student are integral members of the team for the development of the individualized program for the child. For further information on the PPT, refer to chapter on “Planning and Placement Team.”

IEP Components

Specific, detailed information about the IEP is contained in the IEP Manual and Forms published by the Connecticut State Department of Education (CSDE). It is available on the CSDE website.

Berlin uses the standard state IEP form that has numerous legally required components that help guide the PPT in

the development, review, revision, and implementation of the student's program. Many of these various components are listed and described in this section of the procedures.

IEP Initial Pages

Cover Page

The cover page of the IEP provides:

- basic demographic information about the student along with the reason for the PPT meeting,
- the primary disability,
- team members present, and
- information regarding the next meeting and evaluations.

Page two of the IEP provides a list of PPT recommendations and a summary of the PPT meeting. Meeting summaries, or minutes of a PPT meeting, are optional. However, most school districts, including Berlin, provide a summary to explain how the PPT reached its decisions on the student's identification, evaluation, program, or provision of FAPE. A meeting summary or minutes of the PPT meeting is not a transcript of the PPT discussions.

Prior Written Notice

Page three of the IEP is titled Prior Written Notice (PWN) and serves to notify parents and eligible students, in writing, 10 school days before Berlin takes any action as a result of the PPT decisions. PWN is provided to the parent after the PPT meeting where the PPT proposes, or refuses to, initiate or change the student's identification, evaluation, educational placement, or the provision of FAPE to the student. This is not to be confused with the invitations to PPT meetings, which also may be called "notice," and go out to parents and PPT members before the scheduled meeting.

The PWN includes the following information:

- Description of the action proposed or refused by the PPT;
- Explanation of why the PPT proposes or refuses to take the action;
- Description of any options the PPT considered and the reasons why those options were rejected;
- Description of each evaluation procedure, test, record, or report Berlin used as a basis for the proposal or refusal;
- Description of any other factors that are relevant to the PPT's proposal or refusal; and
- Statement that a parent or eligible student has protection under the IDEA and state procedural safeguards. If this notice is not an initial referral, prior written notice will include a description of how the procedural safeguards can be obtained. Prior written notice will include sources to contact to obtain assistance in understanding the provisions of IDEA.

Prior Written Notice is described in greater detail in the chapter: "Written Notice, Prior Written Notice (PWN) and Parental Consent."

Present Levels of Academic and Functional Performance

Present Levels of Academic and Functional Performance include a description of how a student is currently performing in many important academic, behavioral, vocational, and adaptive areas. In addition, it includes a description of strengths, concerns, and needs that require specialized instruction and a description of how the student's disability impacts their involvement and progress in the general education curriculum or appropriate preschool activities. The Present Levels of Academic and Functional Performance document parent and student input and concerns. The PPT must ensure that parent and student input on the student's academic achievement and functional performance is sought out as part of the planning process.

The student's present levels of performance provide the team with critical information for many of the decisions about the IEP.

Transition Planning

Transition planning and related goals and objectives are an integral part of the IEP beginning at the annual review following a student's 15th birthday, or earlier if determined appropriate by the PPT, and annually thereafter.

Transition services are a coordinated set of activities for a student with a disability, designed to be a results-oriented process. The services are focused on facilitating the student's movements from school to post school activities and include:

- Postsecondary education;
- Vocational education;
- Integrated employment (including supported employment);
- Continuing and adult education;
- Adult services (e.g., Bureau of Rehabilitation Services [BRS], Department of Developmental Services [DDS], Bureau of Education and Services for the Blind [BESB], Department of Mental Health and Addiction Services [DMHAS]);
- Independent living; and/or
- Community participation.

Transition services, written as goals and objectives in the IEP, are based on the individual needs of each child, taking into account the child's strengths, preferences and interests, and include activities in the areas of:

- Instruction and related services;
- Community experiences;
- The development of employment and other post-school adult living objectives; and
- If appropriate, the acquisition of daily living skills and provision of a functional vocational evaluation.

When appropriate, and with the consent of the parent or eligible student, Berlin will invite to the PPT meeting a representative of any participating agency that is likely to be responsible for providing or supporting transition services. If the participating agency fails to provide the transition services described in the IEP, Berlin will reconvene the PPT as soon as possible to identify alternate strategies to meet the transition needs in the IEP.

For children with disabilities who require special education and related services who are convicted as adults under state law and incarcerated in adult prisons, transition planning and services do not apply if their eligibility under Part B of IDEA will end (due to age) before they are released from prison (based on their sentence and

eligibility for early release).

The IDEA requires that, at least one year prior to reaching age 18, the student be informed of his/her rights under IDEA that will transfer to him/her at age 18. Documentation of this status of this notification and the transfer of rights will be recorded on page 6 of the student's IEP. Berlin will annually provide parents with the Transition Bill of Rights at the PPT of each student receiving special education services in grade six to twelve and document this on page 10 of the IEP.

Measurable Annual Goals and Short-Term Objectives

Measurable annual goals and short-term objectives should align with the present levels of academic achievement and functional performance and describe expected learning outcomes for the student. The specified goals and objectives should align with the grade level general education curriculum standards, functional performance and Connecticut Frameworks.

Annual goals are used to estimate what outcomes a child can be expected to achieve in one year based on the student's present levels of performance. Short-term objectives describe meaningful intermediate and measurable outcomes between the student's current performance level and the annual goal.

Measurable annual goals and short-term objectives correlate to meeting the student's academic, social, and functional needs that result from the student's disability and enable him/her to participate and progress in the general curriculum.

In order to determine on a regular basis whether the student's short-term objectives are achieved, Berlin includes additional information in the IEP: performance criteria, evaluation procedures, evaluation schedule, and a statement of how the student's progress toward the annual goals will be measured.

Program Modifications/Accommodations, Nonacademic, Extracurricular

The IEP will include a statement of the special education and related services and supplementary aids and services (based upon peer reviewed research to the extent practicable) to be provided to the student or on behalf of the student, as well as a statement of the program accommodations, modifications, and supports for school personnel that will be provided, so that the student:

- advances appropriately toward attaining the annual goals;
- is involved and progresses in the general curriculum;
- as determined appropriate by the PPT, participates in extracurricular and other non-academic activities;
- as determined appropriate by the PPT, is educated and participates with students with and without disabilities.

The IEP will specify supplementary aids and services provided to or on behalf of the student, program accommodations, and modifications and supports for school personnel, as appropriate, including:

- The specific required accommodations and modifications including assistive technology devices and services as appropriate,
- The location and duration of the accommodations and modifications that will be included, and,
- The specific frequency and duration of supports for school personnel to implement the IEP.

Special Education, Related Services, Regular Education

Special education and related services, which are related to specific annual goals and objectives, will be described in the IEP as follows:

- The frequency of the service;
- The responsible staff;
- The service implementer;
- The start and end date of the services provided;
- The instructional site of these services; and
- If needed, a description of the instructional service delivery.

The frequency of services must be indicated in a way that most accurately reflects the service implementation and is stated in the IEP so the District's commitment of resources is clear to parents and staff.

Description of Participation in General Education

The IEP contains a brief statement of the extent of the student's involvement in the general education curriculum. For example, "The student will participate in third grade classes for all academic subjects."

Justification for Removal from General Education

For each student who is removed from general education for any portion of her/his school day, a justification for that removal is indicated on the IEP.

Additionally, the IEP will include an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities.

Nonacademic and Extracurricular Activities/Services

Berlin takes steps to provide nonacademic and extracurricular services and activities to students with disabilities in order to meet their unique needs. These may include social skills groups, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by Berlin Public Schools, referrals to agencies that assist individuals with disabilities, and employment of students (including both employment by Berlin and assistance in making outside employment available), in such manner as is necessary to afford students with disabilities an equal opportunity for participation in those services and activities.

Transportation

The IEP contains information about the type of transportation to be provided to the student. All students requiring special education are entitled to participate in the transportation services available to all students in the district. The PPT must determine if the student can participate in the regular transportation or if specialized transportation must be provided. **If specialized transportation is required, it is considered a related service for the student and must be specified in the student's IEP.** A related service helps the student to benefit from the special education instruction provided for in the IEP.

Total travel time shall not exceed one hour each way to and from a special education facility except with written parental consent, and all decisions relating to travel time shall take into account the nature and severity of the student's disability and the student's age. If an appropriate placement cannot be made without exceeding the one-hour travel limit, written parental consent is obtained prior to implementing the transportation service.

Physical Education

The IEP contains information about how the student will participate in physical education. All students requiring special education are entitled to participate in the general physical education program offered to all students. This is the case unless the student is enrolled in a separate facility or the student needs specially designed physical education as prescribed in his/her IEP. Students enrolled in a separate facility receive appropriate physical education services, including specially designed services, if necessary.

The PPT must decide if the student can participate in the regular physical education program (with or without supplementary aids and services) provided to all students, or if specialized physical education, known as Adaptive Physical Education (APE), should be provided. If a student requires specialized physical education, the services must be specified in the student's IEP.

Assistive Technology

The IEP contains information about whether the student requires Assistive Technology. Assistive technology (AT) devices, services (or both), are made available to a student with a disability as required to assist the student to benefit from special education, and as such, are considered related services designed to help the student benefit from instruction. Assistive technology needs should be reflected in the student's Present Levels of Academic and Functional Performance, as well as in the Goals and Objectives written for a student, if appropriate.

Assistive technology may be a part of one or more of the following: special education, related services, or supplementary aids and services. Berlin provides the AT devices in all settings specified in the student's IEP. The PPT will determine if the student needs access to the AT device at school, home, and community work sites. Berlin makes efforts to ensure that hearing aids worn in school by students with hearing impairments, including deafness, are functioning properly. In addition, the District will ensure that the external components of surgically implanted medical devices are functioning properly.

The IDEA adopted the National Instructional Materials Accessibility Standard (NIMAS) for the purpose of increasing the availability and timely delivery of textbooks and other core instructional materials in accessible formats to blind or other persons with print disabilities in elementary and secondary schools.

Berlin will coordinate with the National Instructional Material Access Center (NIMAC) to assure the timely provision of instructional material for blind or other persons with print disabilities. Berlin requires textbook publishers to submit a NIMAS file to the NIMAC, or may purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. However, Berlin remains responsible for ensuring that accessible specialized formats are provided to students with print disabilities in a timely manner. This is particularly important if teachers are using material not readily available through NIMAC, such as materials they create on their own. Specialized material developed by teachers must be made accessible for use by students with disabilities when necessary.

Vocational Education

All students eligible for special education have access to all career and vocational services available to students in general education. Vocational services are provided for each student whose IEP requires such services; and such vocational services must have an academic component. Vocational education services are specified in the IEP.

Length of School Day and Year

The IEP will specify the length of the school day and school year, as determined by the PPT based on the unique needs of the student. The length of the school day and year for students requiring special education and related services is the same as for students in the general education program, unless otherwise specified in the IEP. Extended school year (ESY) services are available as necessary to provide the student with a free appropriate public education (FAPE). Berlin provides ESY services only if the PPT that develops the student's IEP determines, on an individual basis, that the services are necessary for the provision of FAPE. Berlin does not limit extended school year services to particular categories of disabilities, and does not unilaterally limit the type, amount, or duration of those services.

The District has the responsibility to offer all special education services to students in the least restrictive environment for the student.

Berlin has a district memo outlining the requirements for ESY Services. In addition, the CSDE has a Topic Brief on ESY located on the CSDE website.

Summary of Performance

When a child's eligibility for special education and related services is ending due to graduation from secondary school with a regular diploma, or due to exceeding the age of eligibility, Berlin will provide the student with a summary of his or her academic achievement and functional performance, which will include recommendations on how to assist the student in meeting their postsecondary goals. This information is included in the Summary of Performance (ED 635) and is not a formal part of the IEP, but is required under IDEA.

Special Factors, Progress Reporting, Exit Criteria

Special Factors

The PPT must consider special factors when developing a student's IEP. They are: (1) behavioral strategies and interventions and supports for students with behavioral concerns; (2) the language needs of students with Limited English proficiency; (3) the use of Braille for students who are blind or visually impaired; and (4) the development of a Language and Communication Plan (ED 638) for students who are deaf or hard of hearing. For students who are deaf or hard of hearing, the development of a Language and Communication Plan is required.

Progress Reporting

The IEP includes information on when parents will be periodically informed of the student's progress toward meeting the annual goals and the extent to which that progress is sufficient to enable the student to achieve the

goals by the end of the school year. This will be at least as often as progress reporting is provided for parents of students without disabilities. District personnel are encouraged to provide annotations or narrative descriptions of progress reporting in the IEP and maintain their progress data for at least one year.

Exit Criteria

“Exit criteria” applies to every special education student, not just students currently being exited. “Exit criteria” means the anticipated criteria to be used in the future which will determine that the student no longer requires special education services.

Assessment/Accommodations

Students with disabilities must be included in state and district wide assessment programs, with appropriate accommodations, where necessary. The PPT determines for each special education student individually the accommodations to the district wide assessments.

Additionally, the PPT determines for each special education student individually the need for accommodations to the Smarter Balanced Assessment (SBA). The PPT should reference the Smarter Balanced Usability Guidelines (www.smarterbalanced.org) to determine what accommodations are allowable and the conditions under which they may be used.

With respect to state wide assessments, it is the PPT’s responsibility to determine if a student will be assessed with an alternate assessment. Every state must have an alternate assessment available for those students with disabilities who are unable to participate in the standard grade level assessment, even with accommodations. Only students with significant cognitive impairments may participate in an alternate assessment.

If the PPT determines that a student will not participate, even with accommodations, in the standard administration of a district-wide assessment of achievement, or will not participate in any part of a district wide assessment, the IEP must include a statement explaining why that assessment is not appropriate for the student, and how the student will be assessed. In this case only, the PPT will determine the procedure for the alternate assessment.

Transitioning Three Year Olds from Birth to Three System

A student receiving services through the Connecticut Birth to Three System may be eligible to receive special education and related services through the District upon reaching age three. While the District receives contact information for all children who are age two and one half and are receiving services through Connecticut Birth to Three, parents must consent to the release of information from the Birth to Three System to the District before substantive information can be shared with the District. Some parents may wait to give the Birth to Three System consent to transfer information to the District, while others may elect not to provide consent for the release of such information.

If the District has been provided with the information necessary to properly transition the student from the Birth to Three System to the District, and the District finds the student eligible for special education and related services, an IEP is developed and implemented by the student’s third birthday.

If a child is scheduled to transition from Birth to Three programs to Berlin Public Schools, and the child turns three years during the summer months, Berlin will determine whether the child is eligible for a free appropriate public education (FAPE) and whether the child requires extended school year services (ESY), all prior to the student's third birthday. If the student is eligible for FAPE and requires ESY services, Berlin will implement the IEP by the student's third birthday, even though this occurs in summer months. If the student is eligible for FAPE and does not require ESY services, the IEP will be implemented on the first day of school. Additional information related to identifying and providing services for three year olds is contained in the chapter: "Child Identification."

Students Who Transfer from Other Districts or from Out-of-State

If the records of a new student indicate the student has been identified as a student with a disability and requires special education and related services, the student, once enrolled, is provided a free appropriate public education including services comparable to those described on the student's Individualized Education Program (IEP). A Planning and Placement Team (PPT) meeting must be held at the earliest possible opportunity to review and revise, where appropriate, the student's IEP.

Agreement to Change an IEP without Convening a PPT Meeting [ED 634]

In making changes to a child's IEP after the annual PPT meeting for a school year, Berlin and the parent of a child with a disability may agree not to convene a PPT meeting to make those changes through the use of Form ED 634.

In that situation, the IEP may be amended (without redrafting the entire IEP) by attaching to Form ED 634 pages one and two of the IEP, as revised, the Prior Written Notice page and those pages of the IEP that will be different due to the changes.

Other members of the PPT shall be informed of the changes made to the IEP. The parent will be provided with a revised copy of the IEP with the amendments incorporated.

An IEP should not be changed or otherwise revised by the district except as permitted 1) under FERPA (see Chapter 2/Confidentiality/Amendment of Student Records); 2) pursuant to the amendment process authorized through the use of the Form ED 634; or 3) in accordance with guidance from the State Department of Education on making technical edits to IEPs (see SDE Guidance, Technical Edits to the Individualized Education Program ("IEP") Document, dated September 9, 2014).

IEP Access

The student's IEP is accessible to each general education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation. District personnel are each informed of her/his responsibilities related to implementing the IEP and specific accommodations, modifications, and supports that must be provided in accordance with the IEP. A full copy of the IEP is given to parents at no cost within five school days after the PPT meeting. Information included in the student's file is confidential and should not be disclosed internally except to those with a legitimate educational interest. Please see chapter on "Confidentiality" for more specific information about student records.

Resources for Chapter Six:

- IEP Manual and Forms, Bureau of Special Education, CSDE Located at: <http://www.sde.ct.gov> Click onto Special Education in Quick Links and then Click onto PPT Process and IEP forms IEP Form (ED 620), revised March, 2013
- Berlin Agreement to Change an IEP without convening a PPT Meeting (ED 634)
- *Dear Colleague Letter*: Students with Disabilities in Extracurricular Activities, Jan. 25, 2013 (Office of Civil Rights)
- Guidance Documents and Topic Briefs, CSDE Located at: <http://www.sde.ct.gov> Click Special Education under Quick Links, then click Guidance Documents and Topic Briefs Guidelines for Assistive Technology (Updated December 2013)
- Topic Brief: Evaluation Timelines Guidance
- Topic Brief: Extended School Year
- Guidelines for Feeding and Swallowing Programs in Schools (2008)
- Guidelines for Occupational Therapy in Educational Settings (1999)
- Guidelines for Training and Support of Paraprofessionals (2012)
- New: Guidelines for Adapted Physical Education (2012)
- Topic Brief: Post-school Outcome Goal Statements -Frequently Asked Questions
- Guidelines for Physical Therapy in Educational Settings (1999)
- Guidelines for Developing Policies and Procedures for Reporting of Child Abuse and Neglect (2000)
- A Guide to Comprehensive School Counseling Program Development (2008)
- Guidelines for the Practice of School Psychology (2004)
- Guide for the Training, Use and Supervision of Speech-Language Pathology Aides and Assistants in Connecticut (1999)
- Topic Brief: Summary of Performance (SOP) Frequently Asked Questions
- Topic Brief: Writing Transition Goals and Objectives
- Transition Bill of Rights:
http://www.sde.ct.gov/sde/lib/sde/pdf/deps/special/trans_bill_of_rights_for_parents_of_students_receiving_sped_services.pdf
- New: Topic Brief: Questions and Answers Regarding Parentally Placed Students in Private Schools
- Link to IEP Direct: www.iepdirect.com
- http://www.sde.ct.gov/sde/lib/sde/pdf/deps/special/technical_edits_and_the_iep_document_memo_0909014.pdf-State Department Memo on Technical Edits

CHAPTER SEVEN - LEAST RESTRICTIVE ENVIRONMENT

Background

Each student who is eligible for special education is entitled, under state and federal law, to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE). FAPE requires that special education and related services are provided at public expense (no cost to parents) under public supervision and direction; meet the standards of the Individuals with Disabilities Education Act (IDEA) and Connecticut State Department of Education; include appropriate preschool, elementary, and secondary education; and are provided in conformity with an Individualized Education Program (IEP) that meets IDEA requirements. FAPE is available to all students eligible for special education, enrolled in the public schools, and residing in the District from age three through the end of the school year the student turns 21. This includes students who have been suspended or expelled from school.

Berlin ensures that, to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities are educated with students who are nondisabled. Placement of students in special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The purpose of LRE is to ensure that students with disabilities are provided with the same public school experience as their non-disabled peers.

Continuum of Alternative Placements

Berlin provides a continuum of alternative placements to meet the needs of students with disabilities who require special education and related services. These alternative placements are available to the extent necessary to implement a student's IEP. This continuum of placements includes, but is not limited to, instruction in general education classes, special classes, special schools, home instruction and instruction in hospitals and institutions. In addition, supplementary aids and services (such as a resource room or itinerant instruction) are provided in conjunction with regular class placement, other education related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate, consistent with the IDEA'S LRE requirements.

The terms "regular education," "general education" or "regular classes" mean the educational programs and services offered to typically developing students in the public school setting. Over the years, data have been collected to describe the time students with disabilities spend with their nondisabled peers, referred to as "time with nondisabled peers." The data are reviewed to ensure that for each student with a disability, the time spent with nondisabled peers is considered on an individual basis and is the maximum amount of time appropriate for the student. In addition to access to and participation in the general education curriculum, students with disabilities are also entitled to participate in the variety of educational programs and services that are available to nondisabled students in the District. These programs and services include but are not limited to fine and applied arts, business education, technology education and vocational education as well as non-academic and extracurricular activities.

In order to better define for District personnel the possible settings where special education services may be delivered, definitions from the U.S. Department of Education, Office of Special Education Programs (OSEP) Data

Dictionary, and OSEP Comments, have been included here. The definitions have been included for reference only and are not intended to bind the District or any individual PPT to placing a student in a particular setting for any period of time. All programming decisions must be made by an individual student's PPT, taking into consideration the unique needs of that student.

- A regular or general education class includes students who receive the majority of their education program in a regular or general education classroom and receive special education and related services outside the regular or general education classroom for less than 21 percent of the school day.
- A regular or general education environment means regular or general education classrooms and other settings in schools such as lunchrooms and playgrounds in which students without disabilities participate.
- Resource room includes students who receive special education and related services outside of the regular or general education classroom for at least 21 percent but no more than 60 percent of the school day.
- Separate class includes students who receive special education and related services outside the regular or general education classroom for more than 60 percent of the school day.
- Separate school includes students who receive special education and related services in a public or private separate day school for students with disabilities, at public expense, for more than 50 percent of the school day.
- Residential facility includes students who receive special education in a public or private residential facility, at public expense, for more than 50 percent of the school day.
- Homebound/hospital environment includes students placed in and receiving special education in a hospital or homebound program.

Determining Placement –The Role of the Planning and Placement Team (PPT)

In determining the educational placement of a student with a disability, including a preschool student with a disability, the District ensures that the placement decision is made in conformity with the LRE provisions of IDEA. The placement decision is made by the PPT.

The placement of each student with a disability is determined at least annually, based upon the needs of the student. That is, the PPT considers what the least restrictive environment is in order for the student to receive FAPE. The goals and objectives, based on the student's present levels of academic achievement and performance, are determined before the PPT discusses the instructional site in which the student should receive the services in the IEP. In selecting the LRE in which the student will receive the special education and related services described in the student's IEP, consideration is given to any potential harmful effect on the student or on the quality of services the student needs. Each IEP includes an explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities, as well as a justification for removal from regular education. A student with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. Each student requiring special education and related services is educated in the school he or she would attend if he or she did not require special education and related services, unless the PPT determines the student requires another placement in order to receive FAPE in the LRE. Students are educated as close to their home as possible.

Parental Involvement

Berlin takes steps to ensure that one or both of the parents are present at (or afforded the opportunity to participate in) each PPT meeting regarding every aspect of their student's IEP, including decisions related to identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE). The District

must schedule the PPT meeting at a mutually agreed upon time and place. If the District is unable to obtain parent participation in a PPT meeting where placement is discussed, the District must have documentation of the attempts to encourage the presence of the parents at the PPT meeting. Records of phone calls made or attempted, results of those calls, copies of correspondence sent to parents and any responses received, documentation of visits to parents' homes or places of employment and results of those visits are examples of methods that could be used by the District staff to encourage parent attendance. If neither parent can participate in a meeting at which a decision is made related to changing the IEP of their student, the District will use other methods to ensure parent participation (including conference calls).

If the District is unable to obtain parent participation in a placement decision, after multiple attempts and documentation of such attempts, the PPT may make a placement decision without the parent being present at the PPT meeting.

The District presumes that divorced parents have equal rights under state and federal law to participate in all aspects of their student's education, unless either or both parents do not have authority under applicable state law governing matters such as guardianship, separation, or divorce (in which case copies of the most recent court order must be kept in the student's file). The District makes reasonable efforts to ensure that parents understand, and are able to participate in, any group discussions relating to the educational placement of their student. Such efforts would include arranging for an interpreter for parents with deafness or whose native language is other than English.

Nonacademic and Extracurricular Activities

Berlin ensures that in providing for nonacademic and extracurricular activities and services, each student with a disability participates with nondisabled students to the maximum extent appropriate to the needs of the student. All activities and services available to nondisabled students are made available to students with disabilities and include, but are not limited to meals, recess, counseling, athletics, transportation, health services, recreational activities, and special-interest groups or clubs sponsored by the District.

The PPT determines the supports necessary to enable the student to participate in nonacademic and extracurricular activities. If there are criteria for participation that must be met (for example, a student must try out for chorus or an athletic team), the PPT should consider what supports the student may need to try out for an activity. The PPT does not have the authority to modify criteria for participation, but should provide the student with the supports necessary to have an equal opportunity to try out and if the criteria are met, to enable the student to participate.

Private Special Education Programs

The PPT, after writing the IEP for a student with a disability, may determine that the student's needs cannot be met in the public schools. The PPT may consider a private special education program. If the PPT recommends that the student's IEP be implemented in a private special education program and the parents agree with this placement, a student with a disability who is placed in a private special education program by the PPT is provided special education and related services in conformity with the student's IEP. This is done at no cost to the parents.

Any placement initiated by the District must be at a private special education program that meets the state standards for approved private special education programs. Prior to the student's placement, the District holds a PPT meeting to review or revise the student's IEP. A representative of the private special education program must attend the meeting or participate via telephone. The student has all of the rights of a student with disabilities who

is served within the District schools, including the awarding of a general education high school diploma by the Berlin Board of Education provided the student: meets the requirements for graduation, is provided a free appropriate public education by the Berlin Board of Education, and is enrolled by the PPT in a program that does not award a diploma for purposes of high school graduation. The student's IEP will be fully implemented in the approved private special education program and, if necessary, by other providers authorized by the District.

All out-of-state private special education programs will meet the educational standards for private special education programs of the receiving state. If no such standards exist, the District will provide the Connecticut State Department of Education with documentation that the private placement is appropriate to the student's needs as set forth in the student's IEP.

Residential Placement

If the PPT determines that a student's IEP cannot be implemented in a public school, Regional Education Service Center (RESC) or a private special education day program, it may determine that a student receive services in a residential facility. When the PPT makes this determination, the total cost of the placement, including tuition, nonmedical care and room and board is the responsibility of the Berlin Public Schools. Once the PPT determines that a residential placement is appropriate in order for the student to receive a free appropriate public education (FAPE), the District assumes the cost of placement. Under no circumstances may a PPT place a student in a residential facility and then seek to shift the non-educational costs to the parent.

There may be instances where a parent has placed a student in a residential facility and then approaches the District to request that the District pay either (1) the tuition or (2) assume the entire cost of the residential placement. There are several scenarios that can result in cases where students are placed by parents:

- ☐ Parent places a student eligible for special education in a facility approved for special education. The District can accept programmatic responsibility for the student's education through the development and implementation of an individualized education program (IEP) and would then accept fiscal responsibility by paying the costs for the student's placement by the parent at the approved facility. In other words, the PPT agrees the student needs a residential placement for educational reasons.
- ☐ Parent places a student eligible for special education in a facility which may or may not be approved for special education. CGS Section 10-76d(d) allows that students eligible for special education may need services other than educational services, such as medical, psychiatric, or institutional care or services, even though the District is able to meet the student's educational needs through a program and placement offered by the District. In this situation, the parent places the student and requests that the District pay for the cost of special education instruction at a private school, hospital, or other institution which may or may not have an approved special education program. The District may meet its obligation to provide special education to the student by agreeing to pay the reasonable costs of special education instruction.
- ☐ Parent makes a residential placement for a student who is not identified and then requests the District to assume responsibility for the placement. The District should schedule a PPT meeting to discuss the student's eligibility for special education, decide if evaluations should be conducted to determine eligibility, and review the evaluations to determine eligibility. If the student is found eligible, the PPT should develop an IEP and determine what an appropriate placement should be.
- ☐ Parent disagrees with the program and placement offered by the District, places the student in a residential

facility and then requests the District place the student in a residential facility in order to receive an appropriate education. The District and the parent may come to an agreement through the PPT process or mediation on whether the student needs to receive instruction in a residential facility. In this situation, the District and the parent may agree that the District will not place the student in the residential facility, but the District is willing to assume some or all of the costs of the student's tuition and other expenses associated with the placement. If the District and the parents cannot come to an agreement, the parent may file for a due process hearing to challenge the program offered by the District.

Homebound or Hospital Instruction

Students Unable to Attend School for Medical Reasons

The Berlin Public Schools provides instruction to students who are unable to attend school due to a verified medical reason that may include mental health issues.

The student's treating physician must provide a statement in writing directly to the District, on a form provided by the District, which states:

Upon receipt of written parental permission on District HIPPA form, the district ensures that the following procedures are completed in order to allow the provision of homebound instruction (*CT state reg 10 -76d-15*)

- ☐ The student's treating physician has consulted with school health supervisory personnel and has determined that attendance at school with reasonable accommodations is not feasible;
- ☐ The student is unable to attend school due to a verified medical reason;
- ☐ The student's diagnosis with supporting documentation;
- ☐ An indication that the student will be absent from school for at least 10 consecutive school days or the student's condition is such that the student may be required to be absent from school for short, repeated periods of time during the school year; and
- ☐ The expected date the student will be able to return to school.

Instruction shall begin no later than the 11th school day of absence from school provided the District has received notice in writing that meets the five requirements stated above. The District may begin services earlier if it receives adequate notice prior to the student's absence from school. If the student cannot receive instruction while he or she is absent, the student's treating physician shall determine when instruction should begin and shall notify the District.

Non-Special Education Students

In the case of a student not otherwise in need of special education and related services, homebound or hospitalized instruction shall maintain the continuity of the student's general education program. The requirements of evaluation and an individualized education program shall not apply and a PPT need not be convened.

"Maintaining the continuity of the student's general education program" means the student will receive instruction in core academic subjects required by the District or by an interdistrict magnet school or charter school for promotion or graduation.

Special Education Students

If a student has been receiving special education and related services and requires homebound or hospitalized instruction, the PPT modifies, if necessary, the short-term instructional objectives in the student's IEP.

The instruction provided will maintain the continuity of the student's general education program and, in the case of a student with a disability, will be provided to the student such that the student can continue to participate in the general education curriculum and progress toward meeting the goals and objectives in the student's IEP. "Maintaining the continuity of the student's general education program" means the student will receive instruction in core academic subjects required by the District or by an interdistrict magnet school or charter school for promotion or graduation.

Instruction is provided as follows:

- For any student with a disability from three to five years of age, the amount of time determined appropriate by the PPT;
- No less than one hour per day or five hours per week for students in Kindergarten through sixth grade;
- No less than two hours per day or 10 hours per week for students in seventh through twelfth grade.

The time requirements can be increased or decreased if evaluative data indicates and the parents and the District agree, or the PPT recommends an increase or decrease. The location of the instruction may be the student's home or the hospital or other sites in the area such as the town library, taking into consideration the student's medical condition.

Students with Disabilities Who Are Medically Complex

"Medically complex" refers to a student who has a serious, ongoing illness or chronic condition (for at least a year) and requires prolonged or intermittent hospitalization and ongoing medical treatments or medical devices to compensate for the loss of bodily functions.

In the case of a medically complex student with a disability who is not able to attend school due to medical reasons, the PPT must consider and make accommodations for the student's program to be moved from a public school to home or health care facility, including but not limited to, a hospital, psychiatric facility, or rehabilitation center, and back to school when the student is able to return to school.

Instruction for a student with a disability who is medically complex will begin no later than the third school day of absence, provided the student is able to receive instruction.

Students Who Are Pregnant/Postpartum

In the case of a student who is pregnant/postpartum, the student's treating physician must provide a statement in writing directly to the District, on a form provided by the District, which states:

Upon receipt of written parental permission on District HIPPA form, the district ensures that the following procedures are completed in order to allow the provision of homebound instruction (*CT state reg 10 -76d-15*)

- ☐ The student's treating physician has consulted with school health supervisory personnel and has

determined that attendance at school with reasonable accommodations is not feasible;

- ☐ The student is unable to attend school due to a verified medical reason,
- ☐ The student's diagnosis with supporting documentation;
- ☐ The student will be absent from school for at least 10 consecutive school days or the student's condition is such that the student may be required to be absent from school for short, repeated periods of time during the school year; and
- ☐ The expected date the student will be able to return to school.

Instruction shall begin no later than the 11th school day of absence from school, provided the District has received notice in writing that meets the five requirements stated above. The District may begin services earlier if it receives adequate notice prior to the student's absence from school. If the student cannot receive instruction while she is absent, the student's treating physician shall determine when instruction should begin and shall notify the District.

The homebound instruction and other instruction to be provided to a student who is pregnant or has given birth will enable the student to remain in school or otherwise have access to instruction and support services. The District will consider the student's individualized needs and will provide, as appropriate, services that may include transportation, a shortened school day, counseling, modified assignments, or modified class schedule.

Instruction is provided as follows:

- No less than one hour per day for a student through sixth grade;
- No less than two hours per day for a student in grades seven through 12.

The time requirements can be increased or decreased if evaluative data indicates and the parents and the District agree or the PPT recommends an increase or decrease, as appropriate. The location of the instruction may be the student's home or the hospital or other sites in the area such as the town library, taking into consideration the student's medical condition.

The instruction provided will maintain the continuity of the student's general education program. "Maintaining the continuity of the student's general education program" means the student will receive instruction in core academic subjects required by the District or by an interdistrict magnet school or charter school for promotion or graduation.

Chapter 7 Resources:

- Berlin Least Restrictive Environment Procedural Checklist (ED 632)
 - <http://www.sde.ct.gov/sde/cwp/view.asp?a=2626&q=322680>
- LEA Excess Cost Grant and State Agency Placement Grant for Placements in Facilities Approved or Not Approved for Special Education Memorandum (2008)
 - <http://www.sde.ct.gov/sde/lib/sde/pdf/dgm/Report1/HiCostSpEd-Guide.pdf>

CHAPTER EIGHT - STUDENTS PARTICIPATING IN PRIVATE/RELIGIOUS SCHOOLS

Background

Students eligible for special education participate in private, including religious, schools or facilities in several different ways. A student may be placed by their parent in a private, including religious, school or facility that meets the state definition of an elementary or secondary school. A parent may enroll a student in a private school or facility when the provision of a free appropriate public education (FAPE) is at issue. Finally, the District may place a student in a private school or facility in order to provide a FAPE to that student. The District has varying responsibilities for students eligible for special education placed in private, including religious, schools or facilities.

The Berlin Public Schools ensures that children with disabilities, including children who are educated at home, homeless children, children who are wards of the state, and children attending private schools, regardless of the severity of their disability, and who are in the need of special education and related services are located, identified, and evaluated in accordance with IDEA. This responsibility includes cooperating with other agencies in a position to identify children with disabilities.

For purposes of this chapter, the terms “private school students,” “students attending private schools,” “students with disabilities in private schools,” or “private school students with disabilities” refer to parentally placed private school children with disabilities who are eligible for special education and related services and who attend private, including religious, schools or facilities that are located within Berlin. Berlin currently has two private schools, St Paul School and Mooreland Hill School.

“Private school” means a nonprofit elementary or secondary school. In Connecticut an “elementary school” is one that has at least a Kindergarten grade. The IDEA requirements for providing services to parentally placed private school students do not apply to students attending private, nonprofit daycare centers, nursery schools, or preschools without at least a Kindergarten grade; however, the Child Find requirements do apply to these students. Additionally, the IDEA requirements for providing parentally placed private school students with services do not apply to students attending private, for profit, elementary or secondary schools; however, the Child Find requirements do apply to these students.

Therefore, children enrolled in for-profit private schools are not counted for the purpose of determining the proportionate share and eligibility to receive equitable services. The IDEA regulations specify that in order to qualify, schools must be nonprofit.

In Connecticut, children who are being homeschooled by their parents are not considered parentally placed private school children for the purposes of receiving special education and related services under IDEA. Home-schooled students are included, however, for purposes of the Child Find requirements.

If a student with a disability who is eligible for special education and related services is placed by the District in a

private school in order for the student to receive FAPE, the District remains responsible for the student.

Child Find

The IDEA Child Find requirements make clear that Berlin must conduct a thorough and complete Child Find process to determine the number of parentally placed students with disabilities who attend private, including religious, schools or facilities located within the town borders regardless of where the students live. “Child Find” for students who reside in Berlin but who attend schools outside of Berlin is the responsibility of the school district where the private, including religious, school or facility is located.

Berlin is responsible for locating, identifying, and evaluating all students with disabilities who are enrolled by their parents in private, including religious, schools or facilities located in Berlin. This responsibility includes students placed by their parents in a private school in Berlin where the provision of a FAPE is at issue. Berlin will undertake activities similar those taken for children enrolled in the Berlin Public Schools through its Child Find process. The Child Find process is ongoing throughout the year. If the student was placed by the District in a private school in order to provide the student with FAPE, the District already has the Child Find information on the student and does not need to engage in additional Child Find activities for this student. The IDEA regulations require that Berlin maintain in its records and provide to the state the number of parentally placed private school children evaluated, the number determined to be children with disabilities under Part B and the number of children who are provided equitable services.

Equitable Services and Service Plans

Any student with a disability who is attending a private, including religious, school or facility located in Berlin and is eligible for special education and related services receives a services plan from the Berlin Public Schools regardless of the fact that the student may not reside in Berlin. This applies whether or not the parents are challenging the provision of FAPE to the student.

A student with a disability who has been placed in a private school in Berlin (or elsewhere) by Berlin in order to receive FAPE is not entitled to a services plan because FAPE is being provided by Berlin in a private school and the student’s IEP is being implemented.

Students with disabilities in private schools located in Berlin may receive a different amount of services than students with disabilities enrolled in the public schools. Berlin does not have the responsibility to offer a free appropriate public education (FAPE) to students who attend private schools in Berlin.

Berlin takes seriously its obligation to provide equitable services funded with Federal Part B funds to parentally placed private school students with disabilities in accordance with provisions in the IDEA. Under the IDEA, Berlin has the responsibility to provide parentally placed private school children with disabilities, who attend private school in Berlin, an opportunity for equitable participation in the services funded with Federal Part B funds. How, where, and by whom any special education and related services will be provided for parentally placed private school children with disabilities is determined during the consultation process. After timely and meaningful consultation with private school staff and parents of children with disabilities, the District will make the final decisions about all aspects of services to be made available to the population of private school students with disabilities attending a private, including religious, school or facility located in Berlin. The amount of funds available for these services is based on the proportionate share calculation discussed later in this chapter.

Equitable services to parentally placed private school students attending a private, including religious, school or facility located in Berlin must be provided in accordance with a services plan. The services plan must describe annual goals and the specific special education and related services that will be provided. It is reviewed periodically, at least annually, and revised as appropriate. Parents are required participants in the development, review, and revisions of the services plan. The regulations explicitly provide that children with disabilities enrolled by their parents in private schools do not have an individual right to receive some or all of the special education and related services they would receive if they were enrolled in the public schools.

Consultation with Representatives of Private School Students

An integral part of the process of determining equitable participation in federally funded services for eligible students is consultation with parents and staff at the private schools in Berlin. To ensure timely and meaningful consultation, Berlin will consult with representatives of private schools located in Berlin, and parent representatives of parentally placed private school students regarding key issues relating to the equitable participation of eligible private school children with disabilities in federally funded special education and related services.

Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered by Berlin before any decision is made regarding services to parentally placed students with disabilities in private schools. Such consultation will be timely and collaborative.

The consultation process will address the following:

- The Child Find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- The determination of the proportionate share of Federal funds available to serve parentally placed private school children with disabilities, including the determination of how the proportionate share of those funds was calculated;
- How the consultation process among representatives of Berlin, the private schools and parents will take place and how the process will operate throughout the school year to ensure that children with disabilities identified through the Child Find process can meaningfully participate in special education and related services;
- How, where, and by whom special education and related services will be provided including a discussion of types of services, and how services will be apportioned if funds are insufficient to serve all children, and how and when decisions regarding services will be made;
- If Berlin disagrees with the views of the private school officials on the provision or types of services to be provided, a written explanation of the reasons why it chose not to adopt the recommendations of private school officials will be provided. Berlin will maintain documentation that the consultation has occurred, including a written affirmation signed by representatives of the participating private school(s). This documentation will reflect that those officials have participated in timely and meaningful consultation that

has continued throughout the year.

After consulting with appropriate representatives of eligible private school students, Berlin will make the final decision with respect to the services to be provided, including the following:

- Which students will receive services;
- What services will be provided;
- How and where the services will be provided; and
- How the services provided will be evaluated.

Transportation

Berlin provides transportation if it is necessary for the student to benefit from or participate in the services identified in the services plan. Berlin can provide services on-site, at the child's private school, so as not to unduly disrupt the child's educational experience.

If transportation is necessary for the private school student with a disability to benefit from or participate in the services provided by Berlin, transportation costs may be included in calculating the amount Berlin must spend on providing special education and related services. See "Use of Funding" below.

Use of Funding

Berlin spends the following amounts on providing special education and related services to parentally placed private school children with disabilities:

1. For children aged 3-21, an amount that is in the same proportion of the total sub-grant under 611(f) of the IDEA as the number of private school children with disabilities ages 3-21 who are enrolled by their parents in private schools located in Berlin is to the total number of children with disabilities in its jurisdiction aged 3-21.
2. For children aged 3-5, an amount that is the same proportion of the total sub-grant under section 619(g) of the IDEA as the number of parentally placed private school children with disabilities aged 3-5 attending a private school located in Berlin is to the total number of children with disabilities aged 3-5 in the Berlin jurisdiction. Said private school must meet the state's definition of "elementary school."

Berlin may use funds available under Sections 611 and 619 of IDEA to make public personnel available in other than public facilities to the extent necessary to provide services to students designated to receive services, if those services are not normally provided by the private school.

Berlin may use funds available under Sections 611 or 619 of IDEA to pay for the services of an employee of a private school to provide services if:

- The employee performs the services outside of his/her regular hours of duty; and
- The employee performs the services under public supervision and control; and
- The employee is appropriately qualified, licensed, or certified.

Berlin will not use funds available under Sections 611 or 619 of IDEA for:

- The needs of the private school;

- The general needs of the students enrolled in the private school;
- Financing the existing level of instruction in a private school;
- Repairs, minor remodeling, or construction of private school facilities; or
- Other benefits to or needs of the private school.

Berlin will not use funds available under Sections 611 or 619 of IDEA for classes that are organized separately, on the basis of school enrollment or religion, if the classes:

- Are at the same site; and
- Include students enrolled in public schools and students enrolled in private schools.

Equipment and Supplies

Berlin keeps the title and exercises administrative control of all property, equipment, and supplies that Berlin acquires with IDEA funds under Sections 611 or 619 for the benefit of private school students with disabilities. Berlin may place equipment and supplies in a private school for the period of time needed for the program, provided that the equipment and supplies are used only for IDEA Part B purposes. Equipment and supplies will only be provided if they can be removed from the private school without remodeling the facility. Equipment and supplies will be removed from a private school if:

- The equipment and supplies are no longer needed for IDEA Part B purposes; or
- Removal is necessary to avoid unauthorized use for other than IDEA Part B purposes.

Due Process

The parents of a child enrolled by their parent in a private school have the right to file a due process complaint regarding the Child Find requirements under IDEA. Such a complaint must be filed with the town in which the private school is located and a copy is forwarded to the CSDE by the town. The due process provisions in the IDEA and state special education regulations do not apply to issues regarding the provision of services to any particular parentally placed private school child with disabilities whom the town has agreed to serve because there is no individual right to services for such children under the IDEA.

Disputes that arise about equitable services are properly subject to the State complaint procedures. A parent may file a signed, written complaint in accordance with the state complaint procedures alleging that the state or town has failed to meet the private school requirements, such as failure to properly conduct the consultation process. Such complaints are filed with the CSDE.

Resources for Chapter Eight:

- Questions and Answers on Serving Children with Disabilities Placed by their Parents in Private Schools
Located at: <http://sde.ct.gov> Click onto Special Education under Quick Links, scroll down to Fiscal, Grants, RFP, click Questions and Answers on Serving Children with Disabilities.

CHAPTER NINE - DISCIPLINE

Overview

Students with disabilities, like their nondisabled peers, must abide by the student conduct policies adopted by the Berlin Board of Education. The Board has adopted the following student conduct policies: Standards of Conduct for Students, Student Discipline, Drug and Alcohol Use by Students, Conduct on School Buses, Hazing, Bullying Behavior in the Schools /Safe School Climate Plan, and Misconduct Related to Voluntary School Organizations and Activities.

Students with disabilities are subject to the full array of disciplinary actions that may be taken against students as described in the various policies of the Board of Education, including suspension or expulsion from school. The District must follow a set of specific procedural requirements in the event a student with a disability engages in a behavior that requires a disciplinary intervention and exclusion from school, which may result in a change in the student's placement.

General Discipline Considerations: Students with Disabilities

"Exclusion" in the Connecticut state statutes is defined as any denial of public school privileges to a student for disciplinary purposes. Exclusion from school privileges or from transportation services only, for less than 10 consecutive school days, is a suspension. Any exclusion from school privileges for greater than 10 consecutive school days is an expulsion.

Connecticut law provides that all suspensions shall be in-school suspensions, unless at the informal hearing held prior to the student being suspended:

1. The administration determines that the student being suspended poses such a danger to persons or property or such a disruption of the educational process that the student will be excluded from school during the period of suspension; or
2. The administration determines that an out-of-school suspension is appropriate for the student based on evidence of:
 - a. Previous disciplinary problems that have led to suspensions or expulsion of the student; and
 - b. An effort by the administration to address such disciplinary problems through means other than out of-school suspension or expulsion, including positive behavioral support strategies.

The District notifies parents, using an effective means, of any exclusion from school privileges exceeding 90 minutes. Notification will occur within 24 hours of when the student was excluded. All students who are suspended shall be given an opportunity to complete any class work including, but not limited to, examinations that the student missed during the period of suspension. This includes state assessments. In Connecticut, no student may be suspended more than 10 times, or a total of 50 school days in one school year, whichever results in fewer days of exclusion, unless they are provided with the opportunity for a formal administrative hearing prior to the suspension. If an emergency exists, the hearing is to be held as soon after the suspension as possible.

IDEA Discipline Requirements

How Disciplinary Exclusions from School Impact the Provision of FAPE to Students with Disabilities: Change in Placement

General Information

The Process

School personnel may remove a student with a disability from school for disciplinary reasons. The student may be placed in an appropriate interim alternative educational setting (IAES), another setting, or the District may use suspension as a method of discipline for not more than 10 consecutive school days, to the same extent that those alternatives are applied to students without disabilities. An appropriate IAES will depend on the circumstances of each individual case, as determined by the PPT. An IAES selected by the PPT must ensure the student is able to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

If the District and the parents of a student with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time that student can be removed from his/her current placement will be determined as indicated in the IDEA and state statutes (See Sections 10-233a to 10-233k, inclusive, of the Connecticut General Statutes).

The District may consider any and all "unique circumstances" on a case-by-case basis when considering a disciplinary change in placement for the student, consistent with all other state and federal requirements, as appropriate for a student with a disability who violates a code of conduct. "Unique circumstances" include consideration of factors such as the student's disciplinary history, ability to understand consequences, expression of remorse and supports provided to a student with a disability prior to violation of the student code of conduct (taken from Q&A on Discipline Procedures, OSEP, Revised June 2009, Question B).

Students with disabilities may be removed for additional days (not more than 10 consecutive school days in the same school year for separate incidents or misconduct), as long as those subsequent removals from school do not constitute a change in placement. What constitutes a change in placement is discussed in greater detail below.

When a student with a disability engages in behavior that results in a disciplinary action being taken by the District, one of three scenarios occurs:

- ❑ Removal from school by school personnel for not more than 10 cumulative school days in a school year:
The student may be removed from school for not more than 10 cumulative school days in a school year. If this happens, the student may be disciplined in the same way as students who do not have disabilities. No educational services must be provided during the time the student is excluded from school, although the student must be permitted to make-up any missed assignments. This includes partial day removals from school that when added together equal a full school day and full-day suspension from school.

- ❑ Current removal from school when added with previous removals is greater than 10 cumulative school days in the school year: The student with a disability may have already been removed from school during the school year, and this subsequent removal, when added to previous removals from school is greater than 10 cumulative school days in a school year. This may cause a change in placement that requires that certain actions be taken by the District before the removal occurs and to ensure the student receives FAPE during any period of exclusion from school. Please see below for further explanation of when 10 cumulative school days of exclusion is considered a change in placement.
- ❑ Removal from school for more than 10 consecutive school days: The student with a disability is to be removed from school for more than 10 consecutive school days. This causes a change in placement that requires that certain actions be taken by the District before the removal occurs and to ensure the student receives FAPE during any period of exclusion from school.

Partial Day Exclusions

It is important to understand that partial day exclusions from school, such as sending the student home for the rest of the day, is a suspension from school if the student is excluded for more than 90 minutes. Partial day exclusions must be tracked to ensure that appropriate procedural safeguards are applied if the total amount of time the student is excluded in this manner ultimately constitutes a change in placement.

Exclusion from Bus Transportation

Exclusion from bus transportation is considered a suspension, whether the student receives regular transportation or receives transportation as a related service through an IEP. The days the student is suspended from the bus do not count toward the 10-day total if during this period of bus suspension the District provides transportation to the student in some other manner.

Please note: if the student is receiving regular transportation, meaning transportation is not a related service listed in the IEP, and the student has behavior issues that result in multiple suspensions from bus transportation, the PPT should convene to discuss the student's behavior on the bus and what, if any, services the student may need while being transported.

In-School Suspension

If a student is removed from school to in-school suspension, an in-school suspension is counted toward days of suspension if the student is not provided with the opportunity to: (1) continue to appropriately participate in the general curriculum, (2) continue to receive the services specified in the student's IEP, and (3) continue to participate with nondisabled students to the extent they would have in their current placement.

In determining whether the removal of a student with a disability to in-school suspension is counted toward days of suspension, districts must examine the setting used and the services provided to students with disabilities. Practically speaking, the first two criteria (participation in the general curriculum and receipt of services in the IEP) can be addressed in in-school suspension.

The third criteria requires that a student with a disability participates with nondisabled students to the extent such student would have in his or her current placement. If the student with a disability will not have the same level of participation with nondisabled students to the extent they would have in their current placement, the time the student spends in in-school suspension will be counted toward days of suspension. Each situation must be judged individually. The student's time is assessed to determine if the time with nondisabled peers during periods of in-school suspension is comparable to the time the student spends with nondisabled peers during a typical school day.

Although the special education office in the federal Department of Education has not provided any definitive guidance on this issue, it appears that if a district establishes an in-school suspension setting that is available to students with and without disabilities, the time with nondisabled peers criteria is met, even if on any given day that student with a disability is the only student placed in the in-school suspension setting.

Please refer to the guidelines published by the CSDE, "Guidelines for In-School and Out-of-School Suspensions," Revised December 2010, located on the CSDE website, and particularly Appendix D, Children with Disabilities.

Change in Placement

Disciplinary Removal from School CAUSES a Change in Placement

At the point when a student will be excluded from school for more than 10 (cumulative) school days in a school year, a change in placement may occur; where the student is excluded for more than 10 consecutive school days, a change in placement does occur.

As defined, a change in placement occurs if:

The removal is for more than 10 consecutive school days; or

The student has been subjected to a series of removals that constitute a pattern because:

- The series of removals total more than 10 school days in a school year;
- The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
- There are additional factors such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

Please refer back to the notes above on counting partial day removals from school. This is critical in determining if a change of placement has occurred with partial day removals.

Manifestation Determination: Role of the PPT, Timeline

If a disciplinary removal may lead to a change in placement, the PPT convenes before the change in placement to conduct a manifestation determination to review the relationship of the student's behavior to the student's disability. The manifestation determination must be performed within 10 school days of any decision to change the placement of a student with a disability. During the time period before the manifestation determination is complete, the District may remove the student from school through a suspension only if such removal does not constitute a change in placement, and must provide educational services during this time. The PPT determines the setting and the educational services, so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.

PPT Determines the Student's Behavior IS a Manifestation of the Student's Disability

The student's behavior is a manifestation of the student's disability if the PPT determines:

1. The conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
2. The conduct in question was the direct result of the District's failure to implement the student's IEP.

The PPT must review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if the behavior in question is a manifestation of the student's disability.

If the PPT determines the student's conduct is a manifestation of the student's disability:

1. The PPT must conduct a functional behavioral assessment (FBA) unless a FBA was conducted before the behavior that resulted in the change of placement occurred;
2. The PPT must design and implement a behavioral intervention plan (BIP) if one has not already been implemented. If a BIP has been developed, it must be reviewed and modified as necessary to address the behavior; and
3. The student must be returned to the placement from which the student was removed unless the parent and the District agree to a change in placement as part of the modification of the BIP.

If the PPT Determines the Student's Behavior IS NOT a Manifestation of the Student's Disability:

1. The student may be disciplined in the same manner and for the same duration as a student without a disability;
2. The student continues to receive educational services that enable the student to continue to participate in the general education curriculum, although in another setting (i.e., the alternative education opportunity described in Section 10-233d of the general statutes), and to progress toward meeting the goals set out in the student's IEP; and
3. The PPT may determine it is appropriate to conduct a functional behavioral assessment (FBA), and develop a behavioral intervention plan/services (BIP) and modifications to behavioral goals and objectives in the IEP designed to address the behavior violation so that it does not recur.

Due to the specific requirements of the state expulsion statutes, educational services may or may not be required during the period of expulsion depending on the student's age, whether or not it is the student's first expulsion and what the violation is. Berlin's code of student conduct explains in detail the provision of services during periods of expulsion. However, the state expulsion statute is clear that the exceptions to providing an alternative educational opportunity to students who are expelled do not apply to students eligible for special education who are expelled.

Homebound instruction may not be used as the sole option for providing the IAES or the alternative educational opportunity: one hour of instruction a day for Grades K-6 and two hours a day for Grades 7/12 may not be sufficient to meet the criteria of #2 above. The PPT must determine on an individual basis the amount of instructional time to be provided to a student with a disability to ensure the services being offered to the student meets the criteria of #2 above.

Whenever the District is considering an action for a removal of a student to an IAES by school personnel or by a hearing officer, or other removal that constitutes a change in placement, the District must notify the parents

not later than the date the decision is made and provide the parents with a copy of the procedural safeguards notice.

Disciplinary Removal from School does not cause a Change in Placement

1. If the removal from school does not meet the criteria for a change in placement, a manifestation determination is not required and the student may be disciplined in the same manner as students without disabilities.
2. If the current removal from school is not more than 10 school days, school personnel in consultation with at least one of the student's teachers determines the extent to which educational services are needed to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the IEP.
3. The student shall also receive, if the PPT determines it to be appropriate, a functional behavioral assessment (FBA) and behavioral intervention plan/services (BIP) designed to address the behavior violation so that it does not recur.

The services required may be provided in an Interim Alternative Educational Setting (IAES).

If the District and the parents of a student with a disability who has violated a school code of conduct are unable to agree on an appropriate placement, the limitations on the amount of time that student can be removed from his/her current placement will be determined as indicated in IDEA and state statutes. (See Sections 10-233a to 10-233k, inclusive, of the Connecticut General Statutes).

The District may consider any and all "unique circumstances" on a case-by-case basis when considering a disciplinary change in placement for the student, consistent with all other state and federal requirements, as appropriate for a student with a disability who violates a code of conduct. "Unique circumstances" include consideration of factors such as the student's disciplinary history, ability to understand consequences, expression of remorse, and supports provided to a student with a disability prior to violation of the student code of conduct (taken from Q&A on Discipline Procedures, OSEP, Revised June 2009, Question B-2).

Referral to and Action by Law Enforcement & Judicial Authorities

The IDEA does not prevent the District from reporting crimes committed by students with disabilities to appropriate authorities and does not prevent state law enforcement and judicial authorities from exercising their responsibilities under Federal and state law to crimes committed by a student with a disability.

If the District reports a crime committed by a student with a disability to the appropriate authorities, the District transmits copies of the special education and disciplinary records of the student for consideration by the authorities to whom the crime is reported to the extent allowed by the Family Educational Rights and Privacy Act (FERPA), which may require parental consent before the records are provided. Please see the chapter on "Confidentiality" for a further explanation of the requirements for transmitting educational records.

Special Circumstances That Allow the District to Remove a Student with a Disability to an Interim Alternative Educational Settings (IAES) without Regard to Whether the Behavior Is a Manifestation of the Student's Disability

School personnel may remove a student with a disability to an appropriate IAES not to exceed 45 school days, without regard to whether the behavior is a manifestation of the student's disability, if the student:

- ☐ Carries or possesses a weapon at school, on school premises, or at a school function;

- ☐ Knowingly possesses, uses, sells, or solicits the sale of a controlled substance while at school or a school function; or
- ☐ Has inflicted serious bodily injury upon another person at school, on school premises or at a school function.

Serious bodily injury is defined as an injury that results in:

- ☐ A substantial risk of death; or
- ☐ Extreme physical pain; or
- ☐ Protracted and obvious disfigurement; or
- ☐ Protracted loss or impairment of the function of a bodily member, organ, or mental facility.

The PPT selects the IAES in which a student is to be placed by the District or a hearing officer for drugs/weapons/serious bodily injury violations. The IAES must be selected so as to:

- ☐ Enable the student to continue to participate in the general curriculum, although in another setting;
- ☐ Allow for the continuation of those services and modifications, including those described in the student's current IEP, that will enable the student to progress towards meeting the goals in the student's IEP; and
- ☐ Include services and modifications to address the behavior that resulted in the removal to the IAES or that are designed to prevent the behavior from recurring.

Behavior in the Community

School personnel cannot remove a student to an IAES for a student's behavior in the community that involves either weapons or controlled substances. However, students may be suspended or expelled for behavior occurring in the community in accordance with the provisions of the general statutes and Berlin Board of Education Policy (5144). and Section 10-233d(a)(1) of The Connecticut General Statutes).

In order to suspend a student for behavior occurring in the community, the District administration must determine the conduct off school grounds violates a publicized policy of the Board of Education or is seriously disruptive of the educational process. In order to expel a student for behavior occurring in the community, the Board of Education, or a designee of the Board, through a formal administrative hearing, must determine the conduct off school grounds violates a publicized policy of the Board or is seriously disruptive of the educational process.

To find that the behavior is seriously disruptive of the educational process, the District administration or Board of Education or designee will review factors related to the behavior, including whether:

- The behavior happened close to school;
- Other students from school were involved, or whether there was any gang involvement;
- The conduct involved violence, threats of violence, or the unlawful use of a weapon;
- Any injuries occurred; and
- The conduct involved the use of alcohol.

Authority of Hearing Officers, Judges and Courts/Expedited Due Process Hearing

Hearing Officer's Authority to Order an IAES

The District may ask a special education hearing officer to order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days. The hearing officer may place a student in an IAES through an expedited due process hearing if the hearing officer determines that the District has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

Judges and Courts Authority Regarding Removal from School

A judge or the courts continue to have the authority to remove a student from educational settings and services in accordance with state and federal laws. The District may seek a temporary restraining order that orders the student to be placed in an IAES.

Expedited Due Process Hearings

An expedited due process hearing will be scheduled when a hearing is requested:

- ☐ By Berlin to remove the student to an IAES because Berlin believes that keeping the student in the current school program is substantially likely to result in injury to the student or to others;
- ☐ By Berlin to maintain the student in an IAES or another appropriate placement after the expiration of the IAES where the parents disagree with the proposed change and Berlin believes that maintaining the student in the current school program is substantially likely to result in injury to the student or to others;
- ☐ By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 consecutive days in a row without the District following the proper steps;
- ☐ By the parent where the parent believes that a change in placement has occurred because the student has been kept out of school for more than 10 cumulative days in a school year without the school following the proper steps;
- ☐ By the parent where the parent does not agree with the IAES placement; or
- ☐ By the parent where the parent does not agree with the manifestation determination made by the PPT.

During the expedited hearing, the student must remain in the IAES or other disciplinary setting pending the decision of the hearing officer or until the expiration of the additional suspensions, expulsion or 45 school day IAES unless the parent and the LEA otherwise agree.

An expedited hearing must meet the general hearing requirements. The state due process regulations contain procedural requirements that are specific to expedited hearings. The hearing is limited to the above issues and the hearing officer has the authority to limit the introduction of exhibits and testimony as may be necessary to rule on the issue presented.

Protection for Students Not Yet Eligible for Special Education

A student who has not been determined eligible for special education and related services under the IDEA and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in IDEA if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The District is deemed to have knowledge that a student is a student with a disability if before the behavior that precipitated the disciplinary action occurred:

- ☐ The parent of the student submitted to District supervisory or administrative personnel or a teacher of the student, a written statement of their concerns that the student is in need of special education and related services. This may be a parent referral for special education or any such written expression that the parent provides the District. This expression of concern may be provided orally if the parent does not know how to write or if they have a disability that prevents a written statement;
- ☐ The parent of the student requested an evaluation of the student to determine her/his eligibility for special education and related services under IDEA; or
- ☐ The teacher of the student or other District personnel expressed concern about the behavior or performance of the student to the director of special education of the District or to other supervisory personnel.

If the District does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student is subject to the same disciplinary measures as students without disabilities who engage in comparable behavior. The District will not be deemed to have knowledge that the student has a disability if the student's parents had not allowed an evaluation of the student or have refused services under the IDEA, or the student has been evaluated and determined not to be a student with a disability under the IDEA.

If a request is made to evaluate the student to determine eligibility for services during the time in which the student is subject to the disciplinary measures, the evaluation must be done in an expedited manner. Pending the results of the evaluation, the student remains in the educational placement determined by school authorities, which can include suspension or expulsion.

Chapter 9 Resources:

- Connecticut General Statutes Sections 10-233a to Section 10-233k of the Located at:
http://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-233
Berlin Board of Education Standards of Conduct Policy Located at: (Berlin BOE Policy 5144)
Related to Voluntary School Organizations and Activities Standards of Conduct
 - Student Discipline
 - Drug and Alcohol Use by Students
 - Conduct and School Buses
 - Hazing
 - Bullying Prevention and Intervention
- Guidelines for In-School and Out-of-School Suspensions, Revised December 2010, CSDE Located at:
<http://www.sde.ct.gov>. In the CSDE search, use the phrase "suspension guidelines" to find the document.

- Discipline Flow Chart located at:
http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Student/ISS_Discipline_Flow_Charts.pdf
- Questions and Answers on Discipline Procedures, Revised June 2009: US Department of Education
Located at: <http://idea.ed.gov/explore/view/p/,root,dynamic,QaCorner,7>.
- Questions and Answers on Serving Children Eligible for Transportation: November, 2009: US Department of Education Located at: https://doe.sd.gov/oess/documents/SPED_Transportation_Guide.pdf