

Lancaster County Public Schools

Special Education

Policy and Procedural Manual

Free Appropriate Public Education

Lancaster County Public Schools (LCPS) makes a free appropriate public education (FAPE) available to children with disabilities and provides the child and parents all of the rights under Part B of the Individuals with Disabilities Education Act (IDEA), and the Regulations Governing Special Education Program for Children with Disabilities in Virginia.

LCPS ensures a free appropriate public education is available to each child with a disability:

1. whose age is two (2) through twenty-one (21) years;
2. who resides in a home, facility, residence, or any type of shelter within LCPS geographical boundaries;
3. who has a disability, regardless of the severity (according to procedures for Evaluation and Eligibility);
4. who needs special education and related services (according to procedures for IEP);
5. who has been suspended or expelled for more than a total of ten days in a school year (according to providing services in procedures for Discipline) ; and
6. who resides within LCPS boundaries who has not graduated with a Advanced Standard Diploma or a Standard Diploma

Standards for Determining FAPE

LCPS provides services for students with disabilities of school attendance age two (2) through twenty-one (21) years, consistent with the Regulations Governing Special Education Program for Children with Disabilities in Virginia.

Services for students with disabilities include:

1. individualized instruction to meet the unique needs of a student with a disability, according to an Individual Education Program (IEP); and
2. access to programs, services, and activities provided for students without disabilities.

FAPE is provided through an Individualized Education Program (IEP) that is written for a child with a disability that is developed, reviewed, revised in a team meeting. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's needs

LCPS ensures that any expenses for the identification, evaluation, and educational placement of a child with disabilities, or the provision of special education and related services for a child with disabilities are at no cost to parents.

At no cost to parents also includes at no cost to the child if emancipated (age eighteen or married).

This requirement does not preclude charging incidental fees which are normally charged to children without disabilities or their parents as part of the general education program (e.g., activity fees, field trips, etc.).

LCPS provides and uses local, state, federal, and other fiscal resources to provide special education and related services for children who have disabilities. Resources may include interagency agreements and third party providers such as Medicaid.

Prohibition of Mandatory Medication

LCPS staff does not require children to obtain prescription medication covered by the Controlled Substance Act as a condition for school attendance, special education evaluation, or special education services.

CHILD FIND

Lancaster County Public Schools (LCPS) makes a systematic effort to identify all children who may have a disability and need special education and related services. The Child Find system includes activities to locate, identify, and evaluate each child who:

1. is two (2) through twenty-one (21) years of age;
2. is out-of-school or in-school;
3. attends a private school in the district;
4. is highly mobile such as migrant and homeless children
5. who may need special education and related services;
6. are wards of the state or are in state custody;
7. is advancing from grade to grade resulting from passing a grade but who still may have a disability; and
8. need transition planning to ensure a smooth and effective transition from the early intervention program to preschool

PROCEDURAL SAFEGUARDS

TIMELINES

Lancaster County Public Schools (LCPS) ensures that decisions concerning eligibility are made within 65 business days of receipt of the referral by the special education administrator or designee. After the receipt of initial parental consent for evaluation services, the referred child is evaluated. If the child is determined eligible by the Eligibility Committee an IEP is developed and implemented.

Transfers

Upon receiving the records of a student who is transferring to LCPS during the evaluation process, LCPS staff reviews the records and contacts the previous district to

coordinate the completion of the evaluation. LCPS staff reviews the status of the child's evaluation and determines if the sixty (65) school day timeline can be met. LCPS staff discusses with the parent the progress of the child in the evaluation process and work together to agree on the timeline for completion of the evaluation.

Eligibility Membership

LCPS establishes an Eligibility Committee with appropriate membership to address the process of identification, evaluation, placement of students, and the provision of a free appropriate public education for students with disabilities.

At a minimum, the eligibility Committee meeting has in attendance the Chairperson, personnel representing the disciplines providing the assessments, parent(s), the child's general education teacher or if the child does not have a general education teacher, a general education teacher qualified to teach a child of that age, a special education teacher or provider, and at least one person qualified to conduct individual diagnostic examinations of children.

Parent Participation in the Eligibility Committee Meeting

The eligibility Committee considers the concerns of parents and the information they are able to provide regarding their child.

Chairperson Responsibility

The Special Education Coordinator is responsible for the implementation of the eligibility process in the division. The principal ensures that all LCPS procedures are followed and services described in the IEP are provided at that school.

The Eligibility Chairperson ensures:

1. due process and procedural safeguards are followed;
2. appropriate Committee members are present;
3. facilitation of group decision making, and if necessary makes a determination of the LCPS position when the Eligibility Committee cannot agree;
4. receipt of written referrals and the assigning of evaluation components;
5. support for and implementation of eligibility meetings and IEP decisions;
6. communication with parents, notifying them of all eligibility meetings;
7. summarizing the Committees deliberations
8. records of conference proceedings are maintained; and

The Eligibility Chairperson may designate other school staff Committee members to assist in the implementation of these Committee functions or procedures.

Special Education Teacher Responsibilities

Case management and instructional services for the child found eligible are determined by the instructional needs and services required by the child

The Special Education Teacher:

1. assists in maintaining the child's special education records;
2. assists in conducting necessary reevaluations of child;
3. brings to the meeting statements of educational performance, proposed goals, objectives/benchmarks, and specially designed instruction for the child;
4. facilitates the development of the IEP;
5. ensures the implementation of the IEP of children included on his/her caseload including the compilation of written documentation of child's progress and accomplishment of goals, objectives/benchmarks;
6. assists in communication with all members of the child's instructional team, ensuring that the IEP is accessible and they are informed regarding their specific responsibilities in implementation of the IEP; and
7. summarizes and reviews the child's progress and facilitates the revision of the IEP at the annual review meeting.

General Education Teacher

The Referring Teacher/General Education Teacher:

1. submits written referral to Child Study Chairperson;
2. designs, implements, and documents results of interventions and strategies in the general education setting designed to address student problems;
3. assists in the determination of positive behavioral interventions and strategies for the child;
4. brings to the meeting statements of levels of educational performance
5. assists in the development of the IEP, including determination of supplementary aids and services, program modifications or supports for school personnel to be provided for the child;
6. implements the IEP as appropriate; and
7. provides input on child's progress (maintaining monitoring data if appropriate) and the development and revision of the IEP.

Related Services Personnel

Related service personnel may include, but is not limited to speech and language pathologists, physical or occupational therapists, adaptive physical education providers, assistive technology providers, counselors or psychologists, bus drivers, or transportation directors.

If the child's evaluation indicates the need for a specific related service, or a child has been receiving a related service, the case manager will notify the special education coordinator. The special education coordinator ensures that a qualified provider of that service evaluate the student. The related service personnel will contact the case manager upon completion of the evaluation and the IEP Committee will determine if the

related service is needed for the child to benefit from his or her special education. If the child requires a specific related service then the qualified provider will provide written information related to goals, benchmarks/objectives, and specially designed instruction to be amended to the current IEP.

Child Age Eighteen (18) to Twenty-one (21)

In the case of a student who is age 18 or older the Eligibility Chairperson sends the notices of meetings directly to the student.

Other Individuals Knowledgeable about the Child at Discretion of Parent or LCPS

The LEA or the parent may invite other individuals knowledgeable about the child who may participate in the meeting upon request of LCPS or the parent, sharing their knowledge or expertise, and provide input into the development of the IEP.

Agency Representatives Involved in Transition Planning

A public agency that is likely to be responsible for providing transition services shall be invited to the extent appropriate and with the consent of the parent or the child, if the child is an emancipate adult. If the representative of the other public agency does not attend, the LEA shall take other steps to obtain participation of the other agency in the planning of any transition services

Agency representatives:

1. provide information about services of the agency and any issues of eligibility for service;
2. coordinate with school staff and suggest any needed areas of instruction; and
3. begin the process for service delivery.

Consent for Release of Information for Transition Services

LCPS obtains written parental consent before disclosing personally identifiable information to individuals or agencies other than those indicated on the disclosure without consent list. The Consent for Release of Information provided by the LCPS is available in the Guidance Office of the school the child attends. Copies of the completed forms are maintained in the educational records of the specific child.

Early Childhood Transition Planning

The Early Childhood Special Education Preschool Coordinator/Eligibility Chairperson invites the child's previous early intervention program provider to participate in the Eligibility meeting if the purpose of the meeting is the transition from early intervention services to preschool. The invitation to the parent shall indicate that the child is invited and that one of the purposes of the meeting is the planning of transition services.

NOTICE OF ELIGIBILITY MEETINGS

Written Notice of Meetings

The Eligibility Chairperson sends a written Notice of Eligibility Meeting to the parent.

Parent Participation

Methods to Ensure Parent Participation

If the parent is unable to attend, the LCPS staff will ensure parent participation in meetings by arranging for the parent to participate by telephone, video conference, or other methods.

If the parent's native language is other than English or if a different mode of communication is used, the Chairperson arranges for translating, transcribing, or recording the meeting.

Conducting the Eligibility Meeting Without a Parent

LCPS personnel keep detailed records including the date, time, and name of the person attempting the contact. The records, copies of any correspondence sent to the parent, and any response received, are filed in the child's special education record.

LCPS conducts meetings without the parent in attendance if there is verification that the parent knows about the meeting (i.e., there is a minimum of three (3) attempts to contact the parent).

Electronic Notices and Communications

Documentation of electronic notices and communications will be kept in the student's file.

NOTICE OF PARENTAL PROCEDURAL SAFEGUARDS

The Eligibility Chairperson or case manager provides a copy and full explanation of the Parent Procedural Safeguards document at each annual review and:

- (a) upon initial referral or parent request for evaluation;
- (b) upon receipt of the first state written complaint;
- (c) upon the receipt of the first filing of a due process hearing in a school year;
- (d) in accordance with the discipline procedures in which a decision is made to remove a student, which constitutes a change in placement, because of a violation of the code of student conduct; and
- (e) upon request by a parent.

Changes to an IEP

Upon discovery of any errors on the IEP, the IEP member that finds the error notifies the case manager that changes need to be made. LCPS allows minor, non-

programmatic changes to an IEP to include:

- a. typographical errors;
- b. incorrect directory information about the student (i.e., birth date, age, grade, address, school, etc.); and
- c. other information required on the IEP that was agreed upon by the IEP Team but incorrectly recorded or failed to document (e.g., beginning/ending dates, amount of time for services, type of service, etc.).

The case manager will contact the parent(s) and discuss with them the recently found error(s) and ask them if they are willing to consent to the corrections provided that the corrections **do not** change the disability or services provided within the IEP. Within ten (10) days of the changes, the case manager will provide to all IEP Team members a copy of the changes and an explanation of why they were made. If any IEP Team member disagrees, the member may request an IEP meeting to discuss the changes.

Audio or Video Recordings of Eligibility Meetings

LCPS has the option to regulate the use of recording devices at meetings. The Chairperson, in consultation with the Special Education Director determines, on a case-by-case basis, the LCPS decision when a request is made for video recording of any meeting.

Parents have the right to record eligibility, IEP meetings, and meetings concerning discipline matters. Parents do not have a right to video tape eligibility, IEP meetings, or meetings concerning discipline matters.

Any recording of an eligibility, IEP, or disciplinary meeting that is maintained by the LCPS is an "education record" as defined by the Family Educational Rights and Privacy Act. The recording is subject to confidentiality requirements of the regulations under FERPA. The Chairperson ensures that any such recording is maintained as a part of the child's special education record and the parent is granted access to the recording.

Written Notice of Proposed or Refused Action (Conference Summary)

LCPS has a Notice of Proposed or Refused Action (Prior Written Notice) that includes all necessary components.

The Chairperson/case manager gives the parents a copy of the Prior Written Notice (PWN) each time LCPS proposes or refuses to initiate, continue, or change the identification, evaluation, or placement of the child or provision of a free appropriate public education to a child.

Parents receive a copy of the PWN regardless of whether they attend the meeting. The Chairperson mails a copy of the PWN to parents who did not attend the meeting. If the parent attended the meeting, copies of these documents are given to the parent at the close of the meeting or at least within 10 days of the meeting.

If the parent agrees with the decision(s), the proposed action as described is implemented. If the parent was not present at the meeting, the school initiates the action described in the PWN.

LCPS will provide written notice to the parents of a child with a disability at least twenty-four (24) hours before a meeting concerning a safety issue or a change in placement due to a violation of a code of student conduct.

On the date the decision is made to pursue a disciplinary change of placement, the Chairperson sends the parent a notice of the proposed disciplinary action according to LCPS Board Policy, a notice of the meeting, and a copy of the procedural safeguards.

Notices in Native Language or other Mode of Communication

The meeting Chairperson determines the language or mode of communication used by the parent of the child and provides notice in that language or mode of communication unless it is clearly not feasible to do so. The native language of the parent of a child is the primary language used in the home (i.e., the language most frequently used for communication by the parent of the child). If the native language or mode of communication is not English, the Chairperson (Special Education Coordinator) is responsible for obtaining the resources necessary. The Special Education Coordinator makes sure:

1. that the notice is translated to the parent in his native language or other mode of communication; and
2. that there is written evidence of the translation.

If LCPS can not obtain a translated form, the Special Education coordinator contacts the Virginia Department of Education for support in obtaining the translations.

The Special Education Coordinator obtains the necessary translation or interpretation. The Special Education Coordinator maintains copies of all letters of correspondence involved in securing the necessary interpretation or translation of a notice, and a copy of the translation.

Consent for Initial Evaluation

The Child Study chairperson obtains written parental consent before any procedures are used selectively with an individual child to determine if the child has a disability and needs special education and related services.

The LCPS Consent for Evaluation form includes the areas related to the suspected disability, (e.g., health, vision and hearing, motor abilities, social and emotional, general intelligence, academic performance, and communication status).

The Chairperson gives the request for Consent for Evaluation and PWN to the parent.

Denial of Parent Consent for Initial Evaluation

If the parent denies consent for an initial evaluation, the Chairperson contacts the Special Education Director or designee regarding the refusal. When parent and LCPS personnel disagree on consent for initial evaluation, the parties may request mediation, or either party may request, mediation or a due process hearing to obtain consent for the proposed evaluation.

Consent When the Child is in the Custody of the State or Foster Child

LCPS does not require parental consent for initial evaluations for children who are in the custody of the state or who are in foster care when:

- a. despite reasonable efforts, LCPS cannot discover the whereabouts of the parent(s);
- b. the rights of the parent(s) have been terminated by a court which is on file in the student record; or
- c. LCPS discovers that the rights of the parent(s) to make educational decisions have been subrogated by a court of competent jurisdiction, LCPS personnel will ask the individual appointed by the court to represent the child to give consent for the initial evaluation.

If LCPS, after all reasonable attempts, are unable to locate the parents of a child with a suspected disability for the purpose of consent, LCPS may either utilize the person acting as a parent or appoint a surrogate parent for this purpose.

LCPS personnel keep detailed records including the date, time, and name of the person attempting the contact. The records, copies of any correspondence sent to the parent, and any response received, are filed in the child's special education record.

LCPS conducts meetings without the parent in attendance if there is verification that the parent knows about the meeting (i.e., there is a minimum of three (3) attempts to contact the parent).

Consent for Reevaluation

If the parent does not respond to the consent for the proposed reevaluation, the Chairperson makes sure that attempts to obtain the consent are documented. If there are three (3) attempts to obtain the consent for the reevaluation with no success, the Chairperson notifies the evaluation personnel to complete the evaluation.

Consent for Special Education and Related Services

The Eligibility Chairperson obtains written informed parental consent prior to the time a child receives special education and related services. The consent for determining this is a child with a disability provides a place for the date and the parent's signature and states that the parent understands and agrees:

1. to the provision of special education and related services in the least restrictive environment;
2. parental consent is given voluntarily; and

3. the consent statement explains that special education and related services will be provided as described in the IEP

Denial or Revocation of Parent Consent for Services

If the parent denies or fails to respond to a request for consent for provision of services, the IEP case manager contacts the Special Education Coordinator regarding the refusal. LCPS does not “override refusal to consent to the initial provision of special education and related services”, therefore, does not request mediation or a due process hearing

If consent is revoked, LCPS and the building principal make sure that the child remains in the present educational placement during any due process hearings and appeals unless the parent and the eligibility Committee agree otherwise

Consent for Release of Information for Transition Services

LCPS obtains written parental consent before disclosing personally identifiable information to individuals or agencies other than those indicated on the disclosure without consent list. The Consent for Release of Information form provided by the LCPS is available in the Guidance Office of the school the child attends. Copies of the completed forms are maintained in the educational records of the specific child.

REPRESENTATION OF CHILDREN

During Eligibility the Chairperson makes sure that each child is represented by verifying the location, legal status, and availability of parents or guardians prior to taking any action with regard to the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education

Determination of Representative

Biological or Adoptive Parents

Either parent, biological or adoptive, has parental rights unless there has been a judicial determination that limits or terminates their rights.

In the case of divorced parents that have joint legal custody, LCPS assumes that if only one parent is present, the parent present has consulted with the parent not present and the input and decisions offered by the parent represent both parents' input. In the case of a divorced parent that has sole legal custody, that parent may make decisions without the other parent present or offering input.

Legal Guardian

If the child is represented by a legal guardian LCPS obtains a copy of the court order determining the legal guardianship. A copy of the court order will be placed in the educational record of the child.

Person Acting As a Parent

If LCPS determines there is no parent available and the person with whom the child resides is a family member, friend, or other person with whom the parent has made an informal arrangement to care for the child without state agency or court intervention, LCPS determines this is a person "acting as a parent" and as such has all the rights of a parent until the parent reappears to reclaim his or her rights.

A person "acting as a parent" is a relative of the child or a private individual allowed to act as the parent of a child by the natural parents or guardians. For example, a grandparent, neighbor, governess, friend, or private individual caring for the child with the written approval of the parent or guardian of the child would qualify as a "person acting as a parent".

Commitment to DJJ when Parental Rights are not Terminated

If the child has been committed to Department of Juvenile Justice and parental rights have not been terminated, LCPS will involve the biological or adoptive parent in education decision-making and no surrogate parent is assigned.

Commitment DJJ when Parental Rights are Terminate

If the Special Education Coordinator determines that the child is a ward of the State (i.e., parental rights have been terminated by the court), the Special Education Coordinator obtains a copy of the court order verifying that the child is a ward of the State. Special Education Coordinator files the copy of the court order into the educational record of the child. A surrogate parent is appointed.

In instances that involve protective custody of the child, the Department of Social Services (DSS) may inform the Special Education Coordinator that parents must not learn information regarding the whereabouts of their child. In such cases, the Special Education Coordinator requires that the DSS representative provide LCPS a court order that prohibits parent involvement with the child. A copy of the order is filed in the child's records, and a surrogate is appointed because the child's parents are unavailable.

Foster Parent

The Special Education Coordinator verifies that the child resides in a foster home or is otherwise in custody of a State agency.

If the child is placed with foster parents, the Special Education Coordinator determines if parental rights have been terminated. If parental rights have not been terminated, the Special Education Coordinator follows the procedures for representation as noted above. If no parent is known, their whereabouts cannot be determined, or parental

rights have been terminated, LCPS may assign the foster parent as a surrogate parent in accordance with procedures.

In the event parent's rights have been terminated, the foster parent may act as parent without the need for appointment as surrogate parent under the following conditions:

1. the foster parent has an on-going, long-term parental relationship with the child;
2. the foster parent is willing to make the educational decisions required of parents under special education regulations; and
3. the foster parent has no interest that would conflict with the interests of the child.

Age of Majority

LCPS personnel assume the youth is considered able to make informed decisions at age eighteen unless the parent provides the school with a court order declaring the student legally incompetent or the student voluntarily agrees to allow the parent to continue to have educational decision making authority.

Surrogate Parent

If the Special Education Coordinator determines the child is represented by a parent or legal guardian, no surrogate is needed. LCPS does not assign a surrogate parent to an emancipated individual.

The Special Education Coordinator notifies the Director of Special Education that a surrogate parent may be needed when:

1. no one can be identified who meets the criteria of "parent";
2. a parent is identified but efforts, including registered mail to the last known address, fail to locate the parent; or
3. the child is a ward of the State (i.e., all parental rights have been terminated by a court of competent jurisdiction); or
4. the child is an unaccompanied homeless youth as defined in the McKinney-Vento Homeless Assistance Act.

Unaccompanied Homeless Youth

If the student is an unaccompanied homeless youth, the Director of Special Education attempts to identify the student representative. If none are found and the child is younger than 18 a surrogate will be appointed.

Criteria for Selection of Surrogate Parent Volunteers

After determining if a child needs a surrogate parent, the Director selects surrogate parents based on the following:

1. the person is not an employee of the Virginia Department of Education, the LEA, or any other public agency that is involved in the education or care of the child;
2. the person does not have an interest that conflicts with the interests of the child;
3. the person has knowledge and skills that ensure adequate representation of the child.

LCPS maintains a list of people who are willing to serve as Surrogate Parents. The list is reviewed and updated annually.

Surrogate Parent Training

LCPS provides information to persons selected as surrogate parents to assure these persons have sufficient knowledge and skills to effectively represent the child. The information includes:

1. the role of the surrogate parent;
2. the rights and responsibilities of parents of children with disabilities;
3. available resources for additional information and assistance;
4. procedures to follow to be excused from appointment when there is a possibility of a potential conflict of interest;
5. conditions for termination as a surrogate; and
6. notification that the surrogate has the right to represent the child in all matters related to the educational rights of the child.

STATE COMPLAINT PROCEDURES

The Special Education Coordinator or case manager provides a copy and full explanation of the Parent Procedural Safeguards document at each annual review and:

- (a) upon initial referral or parent request for evaluation;
- (b) upon receipt of the first state written complaint;
- (c) upon the receipt of the first filing of a due process hearing in a school year;
- (d) in accordance with the discipline procedures in which a decision is made to remove a student, which constitutes a change in placement, because of a violation of the code of student conduct; and
- (e) upon request by a parent.

MEDIATION PROCESS

LCPS may offer mediation to a parent as an option to settle differences concerning the identification, evaluation, educational placement, or the provision of a free appropriate public education. The Special Education Coordinator or Director explains to the parent that mediation is not a required process, but is offered by LCPS to settle differences or when a due process hearing is requested. If the parents and LCPS agree to mediate the issue, LCPS and the parent jointly submit a written request to VDOE for mediation.

DISCIPLINE OF CHILDREN WITH DISABILITIES

The Superintendent, Director, and building principals make sure that appropriate procedures are followed in the discipline, suspension, and expulsion of children with disabilities.

If a student misbehaves on the school bus, the principal or their designee may suspend the student from the bus if:

1. the IEP does not prohibit the suspension;
2. the suspension does not result in a change of placement for the student; and
3. the behavior has not previously been determined to be a manifestation of the student's disability.

If a student with a disability is suspended from the bus and the IEP specifies transportation as a related service, LCPS makes sure an alternative method of transportation is available. If transportation **is not** a related service, LCPS is not obligated to arrange for transportation services.

REMOVAL FOR 10 SCHOOL DAYS OR LESS DURING A SCHOOL YEAR

A student with a disability who violates a school or board policy may be suspended from school for the same amount of time as a general education student would be suspended, but may not be suspended more than a total of ten (10) school days per school year.

A student with a disability may be suspended for a total of ten (10) school days per school year without invoking any of the other disciplinary requirements, such as manifestation determination, revision of the IEP, or behavior intervention plan.

LCPS board policy does not provide services for children with or without disabilities who are suspended for less than ten (10) school days in a school year.

If a child is suspended more than ten (10) school days in the same school year, this is considered a change in placement.

CHANGE IN PLACEMENT FOR DISCIPLINARY REMOVALS

On the date the decision is made to pursue a disciplinary change of placement, the building principal or designee sends the parent a notice of the proposed disciplinary action according to LCPS Board Policy, a notice of a meeting, and a copy of the procedural safeguards. The notice is sent to the parent at least twenty-four (24) hours before any meeting concerning a safety issue or a change in placement due to a violation of the Student Code of Conduct.

The building principal or designee convenes the meeting within ten (10) school days after a change of placement for disciplinary removals when a child is:

1. suspended for more than ten (10) consecutive school days in a school year;
2. demonstrating a pattern of behavior; or
3. removed to an interim alternative educational setting (IAES) as a response to weapons or drug violations, or if the child has inflicted serious bodily injury upon another person.

Identifying a Pattern of Removals

The IEP Team reviews the behavioral information to determine if the removal constitutes a pattern by reviewing the child's behavior in relation to the following factors:

1. Do the removals total more than ten (10) school days in a year?
2. Is the child's behavior for the current removal substantially similar to the child's behavior in previous incidents?
3. How often does the behavior occur, and at what severity?
4. How long does the behavior last?
5. How many days is the child removed from the educational setting each time?
6. What is the proximity of removals to one another?

MANIFESTATION DETERMINATION

Within ten (10) school days of the decision to change the placement of a child with a disability due to violations of the code of student conduct, the IEP team conducts a manifestation determination meeting.

The IEP team reviews and considers evaluation and diagnostic results, the IEP, teacher observations, teacher-collected data, any relevant information provided by the parents, and a review of the child's placement to answer the questions in relation to the disability and child's offending behavior:

1. Was the conduct caused by or does it have a direct and substantial relationship to the child's disability?
2. Was the child's conduct the direct result of LCPS failure to implement the IEP?

Behavior IS NOT a Manifestation of the Disability

If the IEP team answers "NO" to both of the questions, the behavior is *not* a manifestation of the child's disability, and the child is subject to the same disciplinary procedures as any non-disabled child. The IEP team notifies the principal who in turn notifies the Superintendent of the decision. The Superintendent may recommend expulsion to the LCPS Board according to LCPS Board Policy.

Behavior IS a Manifestation of the Disability

If the IEP team answers "YES" to either of the questions, the behavior is a manifestation of the child's disability, and the child is not subject to further disciplinary procedures, unless the child's violation involved drugs or weapons.

The IEP team reviews the behavior(s) and conducts a functional behavioral assessment (FBA). Based on the FBA, the IEP team:

1. develops a behavioral intervention plan (BIP);
2. reviews and revises the IEP, if appropriate; and determines appropriate educational services and placement.
3. The case manager will implement and collect data on the BIP and IEP.

The case manager reviews data on a regular basis to determine if interventions are effective. If staff determines the data demonstrates interventions are ineffective, an IEP meeting will be scheduled.

PROVIDING SERVICES FOR STUDENTS REMOVED FOR MORE THAN TEN DAYS

After making the manifestation determination, the IEP team selects an educational setting, which may include an interim alternative educational setting that will enable the child to continue to:

1. receive a free appropriate public education;
2. participate in the general curriculum;
3. progress toward meeting the goals in the IEP; and
4. receive functional behavioral assessment and behavioral intervention services and modifications to address the behavior to prevent the behavior from recurring.

The Special Education Coordinator and/or Director arranges for appropriate LCPS teachers and related service personnel to provide specially designed instruction and related services for the child in the placement selected by the IEP team.

LCPS does not terminate educational services for a child with a disability during any period of expulsion or long-term removal (more than ten days within one school year). The Director arranges for appropriate LCPS teachers and related service personnel to provide special education and related services for the student.

REMOVAL TO AN INTERIM ALTERNATIVE EDUCATIONAL SETTING

The IEP team may change a child's educational placement to an interim alternative educational setting (IAES) for not more than forty-five (45) school days:

1. as a response to weapons or drug violations at school, on school premises, or at a school function, regardless if the COMMITTEE determined the behavior was a manifestation of the disability; or
2. if the child has inflicted serious bodily injury upon another person at school, on school premises, or at a school function.

Parent Appeal from Placement Decisions

If the parent disagrees with the determination of the IEP team that the behavior is not related to the disability, the parent may request an expedited due process hearing.

STAY PUT PROVISION

If a due process hearing is requested by either party regarding the manifestation determination or the IAES, LCPS keeps the child in the interim alternative educational setting until the hearing officer makes a decision, or the 45 day time period expires, unless the parent and LCPS agree otherwise.

PROTECTION FOR CHILDREN NOT YET ELIGIBLE FOR IDEA

A child who has not been identified as having a disability according to procedures for **EVALUATION** and **ELIGIBILITY**, who is facing disciplinary procedures, may assert protection under IDEA if the district had knowledge that the child should have been identified as a child with a disability.

Basis of Knowledge

LCPS is deemed to have knowledge that a child is a child with a disability, when concerns are expressed in accordance with procedures for child find and/or the referral process in procedures for evaluation. LCPS has knowledge under one or more of the following circumstances:

1. The parent expressed concern in writing (or orally) to supervisory or administrative staff that the child needs special education and related services.
2. The behavior or performance of the child demonstrates the need for services.
3. The parent requested an evaluation.
4. The teacher or other school staff expressed concern about the behavior or performance of the child to the Director or other supervisory personnel of LCPS.

LCPS is deemed to not have knowledge that a child is a child with a disability if:

1. LCPS had conducted an evaluation and the child was not found eligible for special education services; or
2. It had been determined previously that an evaluation was not necessary.

Before taking disciplinary measures against a child, the principal follows LCPS suspension and expulsion procedures. The principal reviews the child's records and discusses with the child's current teacher(s) and counselor(s) to determine if the district had knowledge that the child may be in need of special education services.

If the principal determines that LCPS does not have knowledge that the child has a disability, then the child is subjected to the same disciplinary procedures applied to children who do not have disabilities. The building principal documents the review of records according to LCPS Board Policy.

Evaluation Request During Disciplinary Proceedings

If a child is being considered for expulsion and the parent requests an evaluation for a possible disability, the Special Education Coordinator schedules a Child Study meeting to review the referral and discuss an evaluation. LCPS conducts the evaluation in an expedited manner. The child remains in the disciplinary placement during the evaluation unless educational services are required under some other provision of law.

REPORTING TO LAW ENFORCEMENT AGENCIES

When a LCPS representative learns, or has reason to believe, a crime has been committed by a child with a disability, the representative follows LCPS Board Policy to report the crime to the appropriate authorities.

Temporary Injunctive Relief for Dangerous Children

If the parent and members of the IEP team are unable to agree upon current placement, the Superintendent, or designee, may apply to an appropriate court for injunctive relief.

Transmission of Records

If LCPS personnel report a crime, the LCPS Representative contacts the parents of the child in accordance with district procedures. The LCPS Representative explains the circumstances of the criminal report, and informs the parent that educational records are released to authorities under the following conditions

1. Upon signed consent for release of information.
2. In compliance with a lawfully issued subpoena. The LCPS representative notifies the parents in writing that the records have been subpoenaed before forwarding them to the requesting party.
3. In emergency situations where the disclosure is necessary to protect the health or safety of the child or others.

Files created and maintained by a School Resource officer for law enforcement purposes may not be governed by FERPA, and may, under some circumstances be released without parent consent according to LCPS Board Policy.

EVALUATION

REFERRAL SYSTEM

Lancaster County Public Schools (LCPS) ensures that students are provided with appropriate instruction and interventions prior to referral through the use and implementation of various intervention methods.

Referral Sources

School Personnel as Referral Source

Referral for a child suspected of having a disability may be made anyone who instructs the child or a parent or other non-school individual.

The referring source seeking assistance for a child, whom he or she believes to have a disability, completes documentation that includes.

1. the required information, and
2. is submitted to the Child Study chairperson.

When a referral is submitted by any source, the Child Study chairperson reviews the documentation to ensure that the referral is complete. One component of a complete referral is the documentation of interventions, appropriate instruction, and behavior supports that have been implemented prior to referral to target and address the behavior(s) of concern.

Prior to a Referral for Special Education Assessment

LCPS utilizes a variety of interventions to provide support to meet the diverse learning and behavioral needs of students. LCPS ensures that students are provided with appropriate instruction and interventions prior to referral. These interventions provide support to meet the diverse learning and behavioral needs of students.

Referral Information

The written referral and student performance information includes the following:

1. personally identifiable data including name and date of birth of child, social security number if available, parent name, address, and phone number;
2. an educational history which may include: school(s) attended; patterns of attendance (e.g., excessive absences, excessive tardiness, discipline reports, suspension(s); current level or grade placement; years in school; performance on district-wide and state mandated assessments; results of systematic screenings; a summary of achievement data; family and student programs (provided through the school or other agencies) in which the child has received services; and other relevant information;
3. a written description of the current status of the child in relation to the Program of Studies and similar age peers in the following areas: communication; academic achievement and functional performance or developmental skills; health, hearing,

vision and motor abilities; social and emotional interaction; general intelligence; and transition needs for students who are in 8th grade or are age 14 and older; and

4. for each area of concern, documentation or written summary of the results of any interventions which include appropriate instruction, support services, and interventions that have been provided to address the concern and improve the educational achievement and functional performance and/or behavior of the child.

Upon receipt and review of a referral, the child study chair schedules a child study meeting and notifies the parent(s) of the time and date of the meeting,

The child study chair and other members of the Committee

1. review the student performance and referral information;
1. determine if the student significantly differs from peers;
2. determine if the interventions implemented were appropriate;
3. decide whether the information is sufficient and supports that the child may have an educational disability;
4. specify the suspected disability or disabilities, if any;
5. identify the areas of assessment for the suspected disability or disabilities; and
6. obtain parental consent for evaluation before initiating any individual evaluation procedure.

Review of Data

Prior to initiating a full and individual evaluation, the Child study Committee makes sure that:

1. results of vision, hearing and other screenings required for all children are available and used in the decision making process;
2. in the event that screening information (e.g., vision, hearing, health, etc.) required by LCPS for all children is not available, such screenings are conducted prior to additional assessments being administered; and
3. issues identified by failed screenings are addressed prior to collection of other evaluation data.

Determination of a Suspected Disability

If the referral and student performance information indicates the possibility of a disability, the child study Committee initiates a full and individual evaluation.

Identifying the Areas for Assessment

The Child Study Committee (CSC) identifies the areas needed for assessment in order to determine the presence of a disability and to ensure a multidisciplinary evaluation.

Requesting Consent for Evaluation Services

The Child Study chair provides the parents a copy of the child study minutes and the of the notice of proposed action to evaluate.

The Child Study chairperson obtains written parental consent before any individual evaluation procedures or instruments are administered to a child to determine if the child has a disability and needs special education and related services.

If the parent does not give written consent, notice will be given to the Special Education Coordinator.

Referral and Student Performance Information does not Support a Suspected Disability

If the Child Study Committee determines that the referral does not support the possibility of the presence of a disability, and decides not to conduct an evaluation, the chairperson documents the decisions in the minutes. The CSC may discuss specific instructional and curriculum supports that might be implemented in the regular classroom including support services to be offered through the LCPS.

The Chairperson gives the parent a copy of the minutes including the PWN informing them of the Committee's refusal to initiate an evaluation of the child.

Students who Transfer During the Evaluation Process

Upon receiving the records of a student who is transferring to LCPS during the evaluation process, LCPS staff reviews the record and contacts the previous district to coordinate the completion of the evaluation. LCPS staff reviews the status of the child's evaluation and determines if the sixty (60) school day timeline can be met. LCPS staff discusses with the parent the progress of the child in the evaluation process and work together to agree on the timeline for completion of the evaluation.

Evaluation Procedures

The child is observed in the environment(s) in which the targeted behavior occurs. When a child is less than school age, or out of school, observation(s) are conducted in age appropriate environments (e.g., preschool programs, vocational programs, day care, community, home).

At least one (1) team member other than the child's regular education teacher observes the child's academic performance in the regular classroom setting. If the child is less than school age or is out of school, the observation takes place in an environment appropriate for the child.

Observation(s) are conducted by someone, other than the regular classroom teacher of the child, who is specifically trained in observation techniques and methods (e.g., teacher, psychologist, guidance counselor).

LCPS evaluation personnel select and administer current editions of assessment instruments. The Director makes sure that each person administering and interpreting

evaluation procedures and instruments meets the training specifications stated in the test administration manual.

LCPS evaluation personnel make sure that:

1. evaluation procedures appropriate for the age and ability level of the child are used; and
2. procedures selected are normed on a population which includes children and youth the same age.

Each evaluator:

1. selects tests and other procedures they have been trained to administer;
2. administers, scores, and interprets the tests and procedures selected according to the instructions specified in the test manuals or through training for each test or procedure;
3. makes sure that tests are not administered to children or youth whose age, disability, linguistic or cultural background is outside the range of his or her training or experience; and
4. describes any modification of standard test administration procedures or scoring with cautions regarding the possible effects of such modifications on validity.

Written Evaluation Report

The written report of the evaluation data used and interpreted by the Committee for determining eligibility and planning an appropriate program may include:

1. child identification information (i.e., name, parents, phone, date of birth, grade, school);
2. a comparison and interpretation of the performance of the child to similar age peers in areas;
3. the full name of all instruments and procedures used, the date each was administered and by whom; any departures from standard test administration procedures and the reasons for that departure;
4. data and sources from standardized, norm-referenced measures which:
 - a. include standard scores and not solely percentiles, grade, or age equivalents;
 - b. are reported with confidence intervals; and
 - c. are in a form that allows for inter-test comparisons (e.g., converted to age-based scores);
5. data from all informal measures, including:
 - a. results of interventions tried before referral;
 - b. a summary of behaviors noted during the observation(s) of the child;
6. a discussion of any discrepancies among evaluation results, e.g., between formal test results and the customary behaviors and daily activities of the child;
7. statements about the unique or individual differences of the child related to the education environment and success in general education curriculum;
8. statements about specific classroom tasks or contexts which are unique to the child (e.g., error pattern analysis, learning style or learning preferences, incentive or motivational style, communication and interpersonal skills);
9. statements about other factors that impact the educational performance of the

- child (e.g., medical, environmental, cultural, or linguistic factors);
- 10. descriptions of the types of activities which might effectively meet the unique educational needs of the child (e.g., instructional techniques, modifications or adaptations, behavior management strategies, lighting, study carrels); and
- 11. a list of the names and professional roles of all evaluators.

When computer-assisted reports are used, the program:

1. allows for input of individually relevant data beyond demographic data;
2. responds to the specific concerns of the Committee;
3. analyzes the data including the provision of recommendations that relate to individualized instructional planning specific to the individual child; and
4. allows for the application of Virginia-specific eligibility criteria (i.e., Virginia developed guidelines).

The evaluator gives a copy of the written report to the Eligibility Chairperson. Reports are filed in the child's folder at a minimum 2 business days prior to the scheduled eligibility meeting. The Special Education Coordinator schedules the eligibility meeting for the purpose of reviewing the evaluation results and making a determination of eligibility.

REEVALUATION

LCPS conducts a reevaluation by the third anniversary of the date of the meeting when LCPS last determined that the child was eligible for special education and related services for children who:

1. have a current IEP; or
2. have a current Service Plan; and
3. are eligible for special education and related services,

The Eligibility Committee meets to review existing data to determine if further assessment is needed for a reevaluation. Based on the review, the Eligibility Committee makes the following determinations:

1. the present levels of performance and educational needs of the child;
2. whether the child continues to meet eligibility for a disability;
3. whether the child continues to need specially designed instruction and related services; and
4. whether any additions or modifications to the special education and related services are needed for the child to meet the goals in the IEP and participate in the general curriculum.

LCPS does not conduct reevaluations more than once per year unless LCPS and the parents agree to conduct further evaluation.

Review of Data for Reevaluation Purposes

To determine the needs for reevaluation, the IEP team reviews the educational record, information provided by the parents, current classroom based assessments and observations, teacher and related service provider observations, progress data, work

samples, standardized assessment, state and district assessment, diagnostic tests, and discipline referrals.

COMMITTEE Determines Existing Data is Sufficient

If, after the review of existing data, the Eligibility determines there is sufficient data to make decisions for continued eligibility and IEP planning, the Eligibility chair summarizes the data review and completes the Eligibility minutes.

The Special Education Coordinator documents the decision. . The Special Education Coordinator includes in the minutes the right of the parent to request a reevaluation. The Special Education Coordinator provides the parents a copy of the Eligibility minutes.

LCPS does not conduct reevaluations if, after a review of the existing data, the information shows:

1. a reevaluation is not necessary to determine whether the child continues to be eligible for services; and
2. a reevaluation is not warranted to determine the education or related services needs, including improved academic achievement and functional performance; and
3. the parents or teacher do not request a reevaluation.

Determination of Additional Information Needed

The IEP team or Eligibility Committee may determine that additional information is needed when the child demonstrates significant progress or lack of progress in academic, behavioral, or social areas that may indicate a need for a change of program, services, or placement.

Upon completion of the requested reevaluation information, the Eligibility Committee meets to review the evaluation. Eligibility minutes are completed.

Parent Request for Reevaluation

LCPS is not required to conduct a full battery assessment of a child to determine if the child continues to be a child with a disability unless requested to do so by the parents. If the parents request an assessment of their child, LCPS may refuse to conduct the assessment, but provides the parents with a copy of the Prior Written Notice stating the refusal to conduct the assessment and the reasons for the refusal. The parents may request mediation or due process if they want the assessment conducted.

Determination that Existing Data is Insufficient (Full and Individual Assessment)

If, after the review of existing data, the IEP team determines there is not sufficient data to make decisions for continued eligibility or IEP planning, and/or the team is proposing to assess the child in another area of suspected disability, the team follows the procedures for a full evaluation.

INDEPENDENT EDUCATIONAL EVALUATION

If a parent requests an independent educational evaluation, the Special Education Coordinator documents the request, notifies the Director.

The Director may ask the parents why they disagree with the district's evaluation. The parents do not have to give their areas of disagreement or reasons for requesting an independent educational evaluation.

The Director may attempt to negotiate areas of evaluation for LCPS to conduct with the child to try to resolve the issue(s).

If the date of the disputed evaluation is close to the date of the child's next reevaluation, the Director may recommend that another full and complete evaluation be conducted by the district.

Review of an IEE

LCPS reviews and considers the results of any independent educational evaluation, whether obtained by the parent or the LEA.

Criteria for IEE

The Director gives the parents a list of independent evaluators who meet the minimum qualifications, and the criteria used by LCPS for evaluations

ELIGIBILITY DETERMINATION

Upon completion of the full and individual evaluation, the Special Education Coordinator schedules an Eligibility Meeting for the purpose of reviewing the evaluation.

The Special Education Coordinator is responsible for making sure that the Eligibility decisions are documented in the minutes as appropriate.

The Special Education Coordinator or other eligibility members describe the decision making process for eligibility determination which may include the following steps:

1. review and analyze all evaluation procedures, tests, records, and reports from the full and individual evaluation;
2. compare results of evaluation data with the eligibility criteria of the suspected disability to determine the presence of a disability;
3. determine if sufficient information is available to make an eligibility determination;
4. specify the influence of relevant determinant factors;
5. if a disability is confirmed, determine the adverse affect of the disability upon educational performance;
6. complete eligibility report(s) to document decisions; and
7. if eligibility is confirmed, discuss recommendations for IEP development.

Eligibility: Review of Evaluation Information

The Eligibility Committee reviews the written report, evaluations, student performance information and additional information. Additional information may consist of evaluations and information provided by the parents, current classroom-based, local or state assessments and classroom-based observations, and observations provided by teachers and related service providers.

Determining Eligibility for a Disability

The Eligibility Committee compares and analyzes the evaluation, student performance information, and any additional information to determine if the child has a disability that meets the criteria as determined by the Virginia Department of Education worksheets for the suspected disability.

Evaluation does not Support Eligibility Requirements for a Disability

If the Eligibility Committee determines the child does not meet eligibility requirements for a disability, the chair person records the decision in the minutes and provided the parent copies of the Eligibility Report and PWN.

All information from this meeting is filed in the child's folder and also forwarded to the IEP Team.

INDIVIDUAL EDUCATION PROGRAM

RESPONSIBILITY FOR SERVICES

LCPS makes sure that an IEP is in place at the beginning of each school year for every student with a disability who is aged two (2) through twenty-one (21) years old and is eligible for special education and related services. This includes students who reside within the boundaries of LCPS, and students who are placed by LCPS in a private school.

An IEP is **not** developed when a child:

1. has been evaluated and the eligibility members have determined that the child does not meet eligibility for a disability under IDEA according to the Virginia Department of Education worksheets.
2. has a disability, but that disability does not adversely affect the educational performance of the child,
3. has an IEP, developed within the last 12 months, that meets the needs of the child.

An Individualized Education Program (IEP) is developed within 30 calendar days from the time date the decision is made that the child meets the definition of a child with a disability .

LCPS provides services directly through staff assignment or creation of resources, or indirectly by contracting with another public or private agency, or through other arrangements.

The Special Education Coordinator/designee assigns a case manager for every child with an IEP. The case manager tracks the delivery of all services and reports to the Special Education Coordinator/designee in a timely manner if any service is not being delivered in accordance with the IEP. If an identified educational need addressed on an IEP requires a service not currently or directly available from LCPS, or when a service is not being provided, the Special Education Coordinator notifies the Director to make arrangements for delivery of services. These arrangements may include expanding current services, starting new services, or contracting for services.

If the Special Education Coordinator and Director are unable to arrange for delivery of an identified service, the Director may contact VDOE for assistance, including obtaining training and support in the identified area of need. The Director maintains records (correspondence, newspaper advertisements, etc.) of efforts made to obtain needed services.

IEP Form

Each IEP team uses an IEP form provided by LCPS (IEP On-Line) for recording the content of the IEP. This IEP form contains the components specified by state and federal laws and regulations, as described in the remainder of these procedures.

IEP Draft

Each case manager is to prepare a draft IEP at least two weeks prior to the annual IEP review date. This draft is to be reviewed by the building principal or designee. Upon completion of this review the draft will be given to parent for review and input.

Early Childhood Special Education Services

LCPS participates in meetings initiated by early intervention service providers to plan for a child's transition from the early intervention program to preschool special education services available through LCPS. If the parent of a preschool age child chooses to pursue services for a child, LCPS implements a plan for the child's programmatic transition to LCPS services including:

1. when the child will be referred to LCPS;
2. when the parent will register the child to attend LCPS;
3. when the service provider will transmit child evaluation data to LCPS;
4. the timeframe for the Eligibility meeting to determine if evaluation information is adequate and if the child is eligible for special education and related services; and
5. how the early intervention service provider will assist in making the transition from the early intervention program to the LCPS.

If the Eligibility Committee determines the child is eligible for special education and related services, the Committee transmits information to the IEP team.

POST-SCHOOL TRANSITION SERVICES

Transition services must be addressed for every child who is 14 years of age and older, or will turn 14 during the academic year. Transition services are a coordinated set of activities for a student with a disability. These services are activities that focus on a successful transition movement from high school to employment or postsecondary education.

The measurable goals must need to be measurable and focused on the following areas:

1. instruction;
2. related services;
3. community experiences;
4. the development of employment and other post-school adult living objectives; and
5. if appropriate, acquisition of daily living skills and functional vocational evaluation.

34 CFR 300.43

Individual Learning Plan

Age Appropriate Assessments for Transition Purposes

Annually, LCPS ensures that age-appropriate assessments are considered and/or updated to reflect the desired post school outcomes. Transition assessment is the ongoing process of collecting data on the individual's needs, preferences, and interests related to the demands of current and future working, educational, living, and personal and social environments. LCPS uses age-appropriate transition assessments that are formal and informal.

Reaching Consensus

The IEP team tries to reach consensus when developing, reviewing, or revising an IEP. Consensus is reached through by total agreement on an issue or by negotiating a compromise to which all members can agree.

If the parent and LCPS personnel cannot reach consensus or negotiate a compromise on a component of an initial IEP, the case manager document this on the PWN. The case manager reminds the parent of the right of the parent and the district to resolve differences through mediation or due process procedures.

If the parent and LCPS personnel cannot reach consensus on a component while reviewing or revising an IEP:

1. LCPS may develop an interim course of action in terms of services to which both parties can agree;
2. The Special Education Coordinator advises the parent of the right to resolve differences through the due process procedures;
3. The Special Education Coordinator proposes the use of mediation for resolving the difference; and
4. The summary of this information is documented in the PWN

If the IEP team cannot reach consensus on an interim measure, the last agreed upon IEP remains in effect until the disagreement is resolved. The IEP team reconvenes at an agreed upon time and date unless mediation or a due process hearing is requested or a complaint is filed with the Virginia Department of Education (VDOE).

If mediation or a due process hearing is initiated by either the parent or LCPS because of disagreement over the IEP, or when a complaint is filed, LCPS does not change the IEP or placement of the child unless the parent and LCPS agree otherwise

DEVELOPING THE INDIVIDUAL EDUCATION PROGRAM

All IEPs are written utilizing the IEP on Line computerized program. All necessary components of the IEP (according to federal and state regulations) are embedded in this program

Transition Services

If the COMMITTEE determines another agency isn't needed for transition planning, the case manager documents this in the PWN.

The IEP team or case manager determines if it is likely that another agency will provide or pay for any transition services. Other agencies or services may include postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

If the case manager or IEP team determines that it is likely that another agency will provide or pay for transition services, a Consent to Exchange Information form will be sent home to the parents, or to the student if they are 18 or older, to obtain consent for the release of information to be exchanged with other agencies and other individuals involved.

If it is determined likely that another agency may provide or pay for transition services as described above, a representative of that agency is invited to the IEP meeting, after obtaining parental consent.

Consent for Release of Information for Transition Services

LCPS obtains written parental consent before disclosing personally identifiable information to individuals or agencies other than those indicated on the disclosure without consent list. The Consent to Exchange Information form provided by the LCPS is available in the Principal's Office of the school the child attends and in the office of the Director. Copies of the completed forms are maintained in the educational records of the specific child.

Student Reaching the age of Majority

At the annual review beginning at age 17, the case manager provides the parent and student notice of the transfer of rights at age 18. This includes access to educational records and consent for testing, services, etc. This is to be documented on the IEP and is the responsibility of the case manager.

Present Levels of Academic Achievement and Functional Performance (Present Levels)

The Present Level of Academic and Functional Performance will describe the effect of the student's disability on his/her involvement and progress in the general education curriculum and areas of need. This includes the student's performance in

- Academic Areas: Reading, Math, Science, History/Social Sciences
- Functional Areas: Socialization, Communication, Behavior, Personal Management, self-determination.

- Test Scores should include an explanation and no abbreviations.
- For preschoolers this section should contain information about how the student's disability affects their participation in age appropriate activities.
- There should be a direct relationship between the Present Level of Academic and Functional Level and other components of the IEP.

Developing Measurable Annual Goals, Including Benchmarks or Objectives

IEP Team reviews the Present Levels in order to develop and prioritize the skills and/or content knowledge most important for the student to acquire in the next twelve months. The COMMITTEE considers:

- a. student strengths and interests
- b. amount of time left in school
- c. behaviors that appear most modifiable
- d. parent, teacher, and student concerns
- e. skills needed to make progress towards the student's postsecondary goal(s)

Based on the Present Level, annual goals are developed, short term objectives may be determined appropriate for some children. If the student is participating in the VAAP, short term objectives are necessary.

Methods of Measurement

The IEP Team determines the methods needed to measure/evaluate the goals, benchmarks, and/or objectives to document the student's success and progress toward the annual goals.

Reports to Parents

The IEP Team notifies the parents of the schedule for progress reports according to school division policy (i.e., mid-term, six weeks, quarterly).

Specifying the Case Manager

The Special Education Coordinator and the school principal determine which staff member will serve as case manager. These two individuals select each case manager based on the individual needs of the student.

IEP Services: Specially Designed Instruction, Supplementary Aids and Services, Assessment Modifications, Related Services, Program Modifications, and Support for School Personnel

Accommodations and Modifications:

What changes in content, methodology, or instruction are needed for to the student to make progress in the general curriculum?

Supplementary Aids and Services

The IEP Team must consider: what aids, services, and supports need to be provided to the student in general education classes or other educational settings to enable the student to be educated with nondisabled students?

Participation in State-Wide Assessment

What modifications are needed by the student in order to participate in state or district-wide assessment? The IEP Team documents the decisions on the Accommodations and Modifications Determination Form).

If the student qualifies for the alternate assessment system, (according to Virginia Department of Education) the COMMITTEE documents the decision on the IEP.

Related Services

If specially designed instruction alone will not facilitate progress toward the IEP goals, benchmarks and objectives, the IEP Team documents the answers to the following:

What related service(s) is needed by the student to:

1. benefit from, participate in, or be provided specially designed instruction?
2. facilitate access to public school?
3. be educated and participate with other students, with or without disabilities?

If the COMMITTEE determines that a student needs a related service in order to facilitate movement from school to post school activities (that is, the related service is needed as a transition service), the IEP Team documents this service as a related service.

Program Modifications and Supports for School Personnel

What specialized training, use of school time, or use of school staff needs to be provided to personnel or parents, on behalf of the student to meet the unique needs?

Beginning Dates, Duration, Frequency, and Location of Services

The IEP Team reviews the services determined and documents:

- a. the projected date for the beginning of each service on the IEP;
- b. how long the service(s) will be provided for each type of service specified on the IEP;
- c. how often the student will receive each service on the IEP; and

- d. where the services(s) will be provided (i.e., regular education, special education, or both.)

Participation in the General Education Program

The IEP lists the classes and activities in which the child will participate in the special education environment.

Physical Education

The IEP Team members decide, based on data collected and the Present Level descriptions in the IEP, if the child is to receive physical education in the general education classes, with or without supplementary aids and services, or specially designed physical education.

Assistive Technology Services and Devices

The IEP Team determines if assistive technology devices and/or services are needed to implement the IEP.

Review Date

The annual IEP review will be held **no later than** one day prior to the annual review date or within 364 days of the annual review date.

IEP COMPLETED

When all components of the IEP are complete, the case manager provides the parent(s) or student, if 18 years old or older) a copy of the IEP, PWN, and any other appropriate documents to the parent/student. The assigned case manager files the originals of the IEP, and any other documents, in the child's blue folder.

If the parent does not attend the IEP meeting to develop the initial IEP, the case manager contacts the parent/student and sends a copy of the IEP, PWN, and Consent for Special Education and Related Services form to the parents. LCPS does not implement the IEP until the signed Consent for Special Education and Related Services is received.

If the parent does not attend a meeting to review or revise the IEP, the case manager sends a copy of the IEP and PWN to the parents, along with all supporting documentation of attempts to contact. Unless contacted by the parent and told differently, services begin as indicated in the revised IEP.

EXTENDED SCHOOL YEAR

LCPS provides an extended school year to children with disabilities, if those children require such services in order for the child to receive a free appropriate public education. An extended school year program is provided when the recoupment time for

a child with a disability exceeds that of similar age peers who are not disabled and who experience the same lapse in instruction.

An extended school year program extends beyond the regular school year for the purpose of maintaining the child's current skill level which, without continued instruction, would be lost or would require an inordinate time to regain those skills. ESY services are not designed to teach new skills, prevent normal amounts of regression, or allow the child to make additional progress, but simply to maintain the student's present level of educational performance of previously learned skills and prevent excessive recoupment time.

Documentation of Regression and Recoupment Time

The IEP case manager collect progress data relative to the IEP goals/benchmarks/objectives taught to demonstrate student performance and trends. Observation/data are collected at the following times:

1. the end of instruction (e.g., prior to summer break);
2. the beginning of instruction after a lapse of instructional time (e.g., return from summer break); and
3. at regular intervals until the performance level is equal to the performance when the lapse in instruction time began.

If the student did not recoup (score the same as before the break in instruction) the skill(s), the case manager notifies the Director and Special Education Coordinator that ESY may need to be considered for the student.

If there have been no breaks in instruction or analysis of the data fails to validate assessment of recoupment, the IEP implementers submit the following data to determine the need for extended year services:

1. tests and observation data collected over a period of time; and
2. the opinion of professionals.

COMMITTEE Analysis of ESY Data

The IEP Team reviews the progress information, data trends, tests, observations, and professional opinions as presented by the case manager. The IEP Team members use the information to answer the following:

- a. Did the child experience regression and limited recoupment during the instructional break?
- b. Will the child experience significant regression in the absence of an educational program?
- c. Will the time to re-learn the lost skills be excessive?
- d. Is the child at a critical point in the program?

If the IEP Team answers yes to any question, the team considers extended year programming, and the team identifies the goals/benchmarks/objectives and services to be delivered on an ESY addendum as populated by IEP on-Line.

If the IEP team answers no to all the questions, the child is not eligible for extended year programming. The IEP Team decision and rationale is documented in the present level of performance and the PWN and the case manager gives a copy of the Notice of Proposed/Refused Action to the parent.

The Director of Special Education and Coordinator make arrangements for the child to receive extended school year services according to the COMMITTEE decision.

PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT

DETERMINATION OF PLACEMENT

The IEP team makes a placement decision based on the needs of the child and the continuum of placement alternatives. The IEP team makes sure that the decision regarding the setting (types of classes, schools, or facilities) in which the IEP is to be implemented is made after all parts of the IEP have been completed.

The IEP team determines placement in the least restrictive environment for a child with a disability on an annual basis. At least once each calendar year, each IEP team reviews and revises the IEP and determines the educational placement of each child with a disability who is receiving special education and related services.

LCPS takes steps to provide children who have disabilities equal opportunities for participation in the academic, nonacademic, and extracurricular programs and activities as are available to children without disabilities. LCPS ensures that all children, including children with disabilities, meet the established criteria and eligibility for participation in academic, nonacademic, and extracurricular activities.

The COMMITTEE specifies any conditions, modifications, or adaptations for participation in the general programs and activities with children who are not disabled.
Modifications to the General Education Environment

Placement Completed

When all components of the IEP are complete, and the placement decision is made, the case manager provides a copy of the IEP and PWN to the parent. The originals of the IEP and PWN are filed in the records of the child.

If the parent does not attend the IEP meeting to develop the initial IEP, the case manager sends a copy of the IEP, PWN, and Consent for Special Education and Related Services forms to the parents. LCPS does not implement the IEP until the signed Consent for Special Education and Related Services is received.

If the parent does not attend an IEP meeting to review or revise the IEP, the case manager sends a copy of the IEP and PWN to the parents, and services begin as indicated on the revised IEP.

PLACEMENT OF A CHILD IN ANOTHER PUBLIC SCHOOL, PRIVATE SCHOOL, OR FACILITY

If the case manager believes there may be discussion of a placement outside LCPS they will contact the Director or Special Education Coordinator to request their presence

at the meeting to assist in determining alternate place if necessary.

If an alternative placement is determined LCPS will have in mind specific programs and offer to the parent the opportunity to visit these programs. If a specific placement is agreed upon the Director/Special Education Coordinator invites a representative of the program to participate in the IEP team meeting. The representative may participate through attendance at meetings, written communication, individual calls, or conference calls.

CONTRACTUAL PROVISIONS FOR STUDENTS PLACED IN ANOTHER PUBLIC SCHOOL, PRIVATE SCHOOL OR FACILITY

If a child with a disability is placed in a program outside of LCPS, the Director/Special Education Coordinator ensures:

1. services are provided in conformance with the IEP;
2. services are provided at no cost to the parent;
3. standards that apply to education provided by state and local education agencies are met;
4. the child has all the rights of any child with a disability served by LCPS;
5. during the time that the placement in another program is being developed, LCPS is responsible for the provision of FAPE to the child; and
6. implementation of the terms specified in the contract or agreement are monitored.

CHANGE IN ELIGIBILITY

A “change in eligibility” means the child is either entering or exiting special education and related services.

A change in eligibility for FAPE includes:

1. initiation of special education and related services;
2. release due to concluding special education and related services and resuming full-time general education services;
3. graduation with a regular diploma; and
4. exceeding the age of eligibility for FAPE.

Release from Special Education and Related Services

The LCPS releases a child when the eligibility Committee determines the child no longer needs special education and related services. Prior to releasing a child, the LCPS completes a reevaluation.

LCPS uses the evaluation data, information from the most recent IEP, and information from the current placement to determine what services, if any, are needed for the child to receive full-time general education services in the general education environment.

The eligibility Committee may discuss any services needed to facilitate progress of the child in the general education program, including those services that are available to children who are not disabled and who are enrolled in the general education program.

The eligibility Committee determines that the child may be released when the child:

1. can function in the general education program without special education and related services; **and**
2. the disability no longer adversely affects their educational performance.

Graduation with a Diploma

“Graduates” means a child completes the established program of study leading to the receipt of a diploma and leaves the school system. The LCPS Board of Education grants a youth with a disability a diploma who has met the State Board of Education criteria standards. Each youth with a disability who completes the secondary program is given the opportunity to participate in graduation ceremonies with peers who are not disabled.

Prior to the annual review date, the case manager schedules a meeting to discuss a change in services/placement due to graduation and prepare a summary, in consultation with the student, of the child’s academic achievement and functional performance, including recommendations on how to assist the child in meeting the child’s postsecondary goals. LCPS staff provides the student with a copy of the summary before graduation.

At the annual review meeting prior to a youth's expected graduation date, the COMMITTEE:

1. reviews the youth's progress in the current program;
2. reviews, and revises if appropriate, the IEP and transition plan;
3. provides the student with a copy of the summary of performance including any documentation the student may need to assist in meeting postsecondary goals.

IEP/Special Diploma

A youth with a disability who accomplishes his/her goals and objectives on their IEP in their Senior year may earn an IEP Diploma (Special Diploma). The youth is provided with the opportunity to participate in graduation ceremonies with peers who are not disabled.

Prior to releasing the youth, the case manager prepares a summary, in consultation with the student, of the child’s academic achievement and functional performance, including recommendations on how to assist the child in meeting the child’s postsecondary goals. LCPS staff provides the student with a copy of the summary before graduation.

At the annual review meeting prior to the completion of the youth’s program, the case manager:

1. reviews the youth's progress in the current program;
2. reviews, and revises if appropriate, the IEP and transition plan;
3. determines any support or assistance the youth needs for successful participation in the commencement ceremonies;
4. provides the student with a copy of the summary of performance including any documentation the student may need to assist in meeting postsecondary goals.

If the youth has attained an IEP diploma or a Modified Standard Diploma, but has not aged out, the youth may return to special education and related services until the youth ages out.

The youth participates in commencement exercises according to school commencement procedures and receives a certificate of completion with no distinction regarding disability made in the ceremony.

Exceeding the Age of Eligibility for FAPE

“Aging out” means the age of the youth has reached the mandated service age for a free appropriate public education and the school district is no longer required to provide special education and related services to the youth. This is a change in eligibility for FAPE.

Prior to the annual review date, the case manager schedules a meeting for the purpose of discussing a change in services/placement due to graduation. The case manager prepares a summary, in consultation with the student, of the child’s academic achievement and functional performance, including recommendations on how to assist the child in meeting the child’s postsecondary goals. LCPS staff provides the student with a copy of the summary before graduation.

At the annual review meeting prior to the youth's 21st birthday, the case manager

1. reviews the youth's progress in the current program;
2. reviews, and revises if appropriate, the IEP and transition plan;
3. determines the last date of services based on the youth's 21st birthday; and
4. provides the student with a copy of the summary of performance including any documentation the student may need to assist in meeting postsecondary goals.

Withdrawal Prior to Program Completion

“Withdrawal” means that a youth leaves the educational system prior to completing the prescribed course of study. Withdrawal procedures are the same for a youth with a disability as those for a youth without a disability.

TRANSFER STUDENTS

Transfer means the student leaves a school district's programs and enrolls in another

educational program. Transfer procedures for a child with a disability are the same as those for a child without a disability.

LCPS makes special education and related services available for children with disabilities who transfer into LCPS within the same academic year, and who were receiving special education and related services according to an IEP at the time of transfer.

LCPS provides special education and related services in consultation with the parents and consistent with the timelines specified in the IEP if:

1. a child transfers from another school district in the Commonwealth; and
2. upon enrollment, the parent or youth presents special education records from the prior district which document:
 - a. the child has a disability;
 - b. the child has been determined to meet Virginia eligibility guidelines for special education and related services;
 - c. the district from which the child transferred provided special education and related services up to the time the child transferred; and
 - d. due process requirements have been met.

The school in which the child enrolls assumes responsibility for educational services. The assigned case manager adopts the previous IEP with any modifications is necessary and develops a new IEP within 30 days. The IEP team will determine the need for a reevaluation.

Students Who Transfer to LCPS from Outside of Virginia

LCPS makes special education and related services available for children with disabilities who transfer into LCPS from outside the state within the same academic year and who were receiving special education and related services according to an IEP at the time of transfer.

LCPS provides special education and related services in consultation with the parents and consistent with the timelines specified in the IEP if:

1. a child transfers from another public school district outside of the Commonwealth; and
2. upon enrollment, the parent or youth presents special education records from the prior district which document:
 - a. the child has a disability;
 - b. the child has been determined to meet Virginia eligibility guidelines for special education and related services;
 - c. the district from which the child transferred provided special education and related services up to the time the child transferred; and
 - d. due process requirements have been met.

The school in which the child enrolls assumes responsibility for educational services. The IEP team determines the need for an evaluation, conducts an evaluation, if necessary, and develops, adopts, and implements the new IEP if the child meets

eligibility guidelines according to procedures for eligibility.

Students who Transfer During the Evaluation Process

Upon receiving the records of a student who is transferring to LCPS during the evaluation process, LCPS staff reviews the record and contacts the previous school to coordinate the completion of the evaluation. LCPS staff reviews the status of the child's evaluation and determines if the sixty (65) school day timeline can be met. LCPS staff discusses with the parent the progress of the child in the evaluation process and work together to agree on the timeline for completion of the evaluation.

Transmittal of Educational Records for Transfer Students

If another district contacts LCPS to verify a previously enrolled child was receiving services at the time of the transfer, the intake person answers questions and records the request for information on the access log in the child's blue folder

Upon receipt of notification that a child has transferred to another school district, LCPS personnel send copies of the education record to the receiving school district or educational agency according to district procedures. A copy of the request for information is filed in the education records of the child and recorded on the Record of Access form.

If the child's current IEP is not available, the LCPS representative enrolls the child and places the child in an age-appropriate general education program according to LCPS Board Policy.

IMPLEMENTATION AND SERVICE DELIVERY

IMPLEMENTATION OF THE IEP

LCPS makes sure that an IEP is in place at the beginning of each school year for every student with a disability who is aged three (3) to twenty-one (21) years old and is eligible for special education and related services. This includes students who reside within the boundaries of LCPS, and students who are placed by LCPS in a private school.

“As soon as possible following an eligibility meeting” allows delays in implementation that include:

1. meetings held during summer break, services to coincide with the beginning of the school year
2. developing an IEP for a child who is not yet three (3) years of age;
3. circumstances that require a short delay (e.g., working out transportation arrangements);
4. decisions by the IEP team to begin implementation with the next grading period, or other natural break in school instruction; or
5. awaiting parent consent for the initial provision of services.

LCPS provides services directly through staff assignment or creation of resources, or indirectly by contracting with another public or private agency, or through other arrangements.

Case Manager

A “case manager” means a teacher who is assigned the responsibility of managing student records and is assigned by the Principal and/or Director. The role of the case manager includes:

1. Completing the student demographic form in the spring and late fall.
2. soliciting, collecting, filing and reporting information to IEP team members and parents as required by policies and procedures;
3. notifying IEP Team members of the students’ progress and/or lack of progress toward measurable goals, and benchmarks and objectives (i.e., reporting progress to parents);
4. consulting and communicating with all IEP team members and teachers of the student;
5. attending eligibility meetings for students who are on their caseload;
6. performing other roles as assigned by the Principal/Special Education Coordinator/Director.

The case manager ensures that all general education teachers working with the student are informed of all accommodations and modifications necessary as documented on the IEP.

The case manager ensures that no less than annually, the IEP is reviewed and a new one is created.

Paraprofessionals

Paraprofessionals may assist in implementation of a student's IEP under the supervision and direction of the case manager. The case manager may direct the paraprofessional to:

1. carry out instructional plans for accomplishing IEP measurable goals, benchmarks or objectives;
2. collect and maintain records of progress data; and
3. use progress monitoring techniques that are specified in the IEP for the annual goals, benchmarks/objectives being measured.

Instructional Planning for Service Delivery

The role of the case manager is to communicate with each IEP team member, and general educator of the student, how services will be provided. Measurable annual goals, objectives/benchmarks, and services listed on the IEP may be addressed in the general education classroom. The general educator may be responsible for monitoring progress toward the measurable goals and services.

The case manager is also responsible in collecting evidence of student progress by maintaining data. The case manager uses the methods of measurement identified for each measurable goal, objectives/benchmarks. The student progress toward the achievement of each measurable goal, objectives/benchmarks is reported to the parent as often as reports are made to parents of nondisabled peers.

Implementation for Service Delivery

The case manager tracks the delivery of all services and reports to the Principal or Special Education Coordinator in a timely manner if any service is not being delivered in accordance with the IEP.

When the case manager and/or Special Education Coordinator and Director are unable to arrange for delivery of an identified service, the Director maintains records (correspondence, newspaper advertisements, etc.) of efforts made to obtain needed services.

Supervision of IEP Implementation

The Principal/Special Education Coordinator/Director ensures that LCPS staff is responsible for the supervision and implementation of the IEP by reviewing lesson plans, reviewing tracking system and by conducting record reviews.

If the Principal/Special Education Coordinator finds that an IEP is not being implemented, the Special Education Coordinator contacts the Director and they develop an appropriate plan of action.

ORGANIZING THE MEETING TO REVIEW and/or REVISE THE IEP (ANNUAL REVIEW)

Prior to the meeting to review/revise the IEP, the case manager selects and notifies IEP team members for the annual IEP review meeting. A member of the IEP team may be excused from attending the meeting if the parent agrees. The excusal form within the IEP on-Line program must be signed documenting the excused team member

Review of the IEP

An LEA shall ensure that the IEP team

(a) reviews each child's IEP periodically, but no less than annually, to determine whether annual goals are being achieved, and

(b) revises the IEP and

1. any lack of expected progress toward the annual goals;
2. any lack of expected progress in the general curriculum, if appropriate;
3. the results of any reevaluation;
4. information about the child provided by or to the parents;
5. the child's anticipated needs;
6. and other matters.

The IEP team meets to review the IEP no less than annually. The annual review of the IEP occurs within twelve calendar months of the date when the IEP was developed.

The IEP team members use student performance data, evaluation information, and progress data to determine if the student made progress in the general curriculum and toward the measurable goals, benchmarks, and objectives. The IEP team reviews and analyzes the following:

1. the degree to which the student has made expected progress toward academic achievement and functional performance in the general curriculum;
2. the results of any reevaluations;
3. information about the child provided by or to the parents;
4. the child's anticipated needs; and
5. other matters as determined by the IEP team.

Based on the review of student progress information, the IEP team:

1. revise the current IEP; and
2. develops a new IEP

If the IEP team determines the student no longer needs special education services, the team discusses the need for a reevaluation. If additional information is needed, the team plans for the reevaluation, requests parental consent, develops an IEP for the reevaluation period, and notifies the Special Education Coordinator of the need for eligibility meeting.

IEP ACCOUNTABILITY

LCPS staff, individual schools, and teachers make good-faith efforts to assist the child in making progress toward the measurable goals and benchmarks and/or objectives, including those related to transition services. In addition, teachers and other personnel who carry out portions of the child's IEP are informed about the content of the IEP and their responsibility regarding its implementation.

If the parents disagree with the decision(s) of the IEP team, the case manager informs the parents of the use of mediation, complaint, and due process procedures according to the appropriate procedures in Procedural Safeguards

GRADUATION AND PROGRAM COMPLETION

LCPS issues the same high school diploma to each student with a disability who meets the required graduation criteria and standards as that issued to student without disabilities who meet the same criteria. The COMMITTEE plans an appropriate course of study leading to graduation and a diploma for a student no later than age fourteen (14).

The LCPS Board of Education grants a student with a disability a diploma as part of the graduating class, with no distinction made in the ceremonies.

Graduation with a Diploma

Each student with a disability in LCPS has an opportunity to complete high school in the same manner and following the course of study available to students who are not disabled. LCPS grants a high school diploma to each student with a disability who meets the required graduation criteria and standards. .

Determining Certificate of Attainment

A student with a disability who meets the criteria for participation in alternate assessment is issued an IEP diploma. A student is eligible for the Virginia Alternate Assessment when the following criteria are met:

1. The student has a current Individual Education Program;
2. The student's demonstrated cognitive ability and adaptive behavior itself prevents completion of the regular course of study even with program accommodations;
3. The student's current adaptive behavior requires extensive direct instruction in multiple settings to accomplish the application and transfer of skills necessary in school, work, home, and community environments;
4. The student's inability to complete the course of study may not be the result of excessive or extended absences; or it may not be primarily the result of visual or auditory disabilities, specific learning disabilities, emotional-behavioral disabilities, or social/cultural/economic differences;
5. The student is unable to apply or use academic skills at a minimal competency level in natural settings (i.e., home, community, or work site) when instructed solely or primarily through the general education curriculum;

6. The student is unable to acquire, maintain, or generalize skills, and demonstrate performance without intensive, frequent, and individualized community-based instruction; and
7. The student is unable to complete a regular diploma program even with extended schooling and program accommodations.

The IEP Team documents the decisions on the Participation Guidelines for the Alternate Assessment System on the IEP.

Each year during the Annual Review meeting, the IEP Team reviews the alternate assessment format decision. The IEP Team may recommend changing assessment formats (alternate assessment or general assessment) based on the meeting the above criteria.

CASE LOADS AND CLASS SIZES

Children who are determined to be eligible for special education and related services by the Eligibility Committee are served in general education classes, resource classes, or special classes based upon the implementation of the IEP.

Case Load for Special Class

The Lancaster County Public Schools follow the point(s)/case load listing in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (see attachment).

Caseload for Speech and Language Pathologists

The caseload limitations for speech-language pathologists in the public schools shall not exceed sixty-five (65) pupils. The total caseload of speech-language pathologists who supervise assistants may be increased by no more than one-half of the amount set forth for each speech-language pathology assistant working under the supervision.

CONFIDENTIALITY

ACCESS RIGHTS

Education Records

"Education record" means: those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term also has the same meaning as "scholastic record." In addition to written records, this also includes electronic exchanges between school personnel and parent(s) regarding matters associated with the child's educational program (e.g., scheduling of meetings or notices). This term also includes the type of records covered under the definition of "education record" in the regulations implementing the Family Education Rights and Privacy Act. (20 USC § 1232g(a)(3); § 22.1-289 of the Code of Virginia; 34 CFR 300.611(b))

Inspection and Review of Educational Records

If the parent, representative, or eligible student makes a request to review and inspect educational records the retrieval and access of the records are provided:

1. without unnecessary delay;
2. within 30 calendar days from the time the request is received;
3. before any meeting or due process hearing takes place; and
4. at a time mutually acceptable to the parent and the school personnel.

Explanation and Interpretation of Records

If the parent requests an explanation of the records, LCPS staff makes sure that the appropriate staff member (e.g., Director, school psychologist, counselor, or special education teacher) is present to explain and interpret the records and answer any questions the parent may have.

If the primary language or mode of communication used by the parent of the child is not English, within five (5) days of a completed parental request to review the educational records of a child, the principal notifies the Special Education Coordinator of the need for translation of the records. The Special Education Coordinator obtains the translator prior to any meeting or due process hearing. Every attempt is made to obtain the translation within thirty-five (35) calendar days after the request is made. This translation is consistent with the mode of communication used by the parent and therefore may include a recorded or oral reading format.

Test Protocols

When LCPS evaluates a child, the Eligibility Chair gives the parent a copy of the written assessment report. The written report provides an explanation of information collected through the assessment process, including an explanation of the information collected on test protocol.

Copyrighted test protocol and raw data generated by evaluators are educational records when the protocol contains personally identifiable information. LCPS makes sure protocols are maintained in secure areas in the offices of evaluators, and are not released to others during the evaluation process.

Federal copyright law protects against the distribution of copies of a copyrighted document, such as a test protocol. Since IDEA and FERPA generally do not require the distribution of copies of an education record, but rather parental access to inspect and review, Federal copyright law generally should not be implicated under these regulations.

In order to abide by copyright laws and protect test validity and security, LCPS does not provide copies of test protocol to parents.

Record of Disclosure

The LCPS shall keep a record of parties obtaining access to education records collected, maintained, or used under 707 KAR Chapter 1 (except access by parents and authorized employees of the LEA), including:

- (1) the name of the party;
- (2) the date access was given; and
- (3) the purpose for which the party is authorized to use the records.

LCPS maintains a Record of Disclosure form in each student's folder as long as the records are maintained. All individuals, including parents, eligible students, and employees of the LCPS with a legitimate educational interest in the records, sign the record of disclosure form prior to inspecting and reviewing the record.

The LCPS provides information from records containing data on more than one child in such a way as to preserve the confidentiality of the other students.

If a parent requests to review and inspect educational records that have information about more than one child (e.g., attendance rosters, child tracking systems, grade books, etc.), then the person responsible for the maintenance of those records makes certain that any personally identifiable information regarding other children is not disclosed.

The LCPS ensures that personally identifiable information about any child is not maintained in the educational record of another child.

TYPES AND LOCATION OF INFORMATION

A LEA shall provide parents, on request, a list of the types and location of education records regarding their child with disabilities that is collected, maintained, or used by the LEA.

FEES FOR COPYING RECORDS

The LCPS may charge a fee for copies of records that are made for a parent if the fee does not effectively prevent the parent from exercising his right to inspect and review the records.

The parent receives a copy of each evaluation and reevaluation report, each eligibility report, each IEP and each Conference Summary following the meetings when each specific document is initially discussed or developed. Initial copies are provided to the parent free of charge.

LCPS charges a fee to the parent for additional copies of records, as long as the fee does not effectively prevent the parent from inspecting or reviewing the records.

RECORD AMENDMENT

Request to Amend Information in Education Records

A parent who believes that information in the education records collected, maintained, or used is inaccurate, misleading, or violates the privacy or other rights of the child may request LCPS to amend the information.

Record amendment refers to changing, deleting, or destroying information in the educational records of a child or youth.

Upon receipt of the written parental request, the LCPS Representative, the Director, and other LCPS personnel as needed, meet with the parent to discuss the parent's request, and review the record. The written parental request includes the date of the request, and the reason for the request.

The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

If, after the meeting, the LCPS decides to amend the information, the Director informs the parent in writing of the decision and amends the record.

If, after the meeting, the LCPS decides not to amend the information in accordance with the parent's request, the Director provides a written explanation to the parent and advises the parent of the right to a record amendment hearing.

Request for Record Amendment Hearing

Within receipt of the parent's written request for a hearing the Superintendent appoints a certified person who is a disinterested party to conduct the hearing. The Director and the person appointed to conduct the hearing, schedule the hearing

“Disinterested party” is a person who:

1. will not benefit or suffer if the decision is for the child and against the LCPS, or for the LCPS and against the child; and
2. has no direct responsibility or authority for supervision of the child or personnel involved with the child.

The Director assures that any statement received from the parent is placed in the child's education record, and identified in a manner that will ensure appropriate disclosure whenever the record is disclosed.

DISCLOSURE OF EDUCATIONAL RECORDS

List of Persons Who May Have Access to Educational Records

The LCPS shall maintain, for public inspection, a current listing of the names and positions of employees who may have access to personally identifiable student information.

The Director develops a list of the names and positions of district level staff that may have a legitimate educational interest and access to personally identifiable information in educational records.

Each school develops a list of the names and positions of all building level staff that may have a legitimate educational interest and access to personally identifiable information in educational records. The principal posts the list of the school and district level staff with the special education files.

Written Parental Consent

Consent for Release of Information for Transition Services

Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies.

LCPS obtains written parental consent before disclosing personally identifiable information to individuals or agencies other than those indicated on the disclosure without consent list, provided by the LCPS is available in the Principal's Office of the school the child attends and in the office of the Director. Copies of the completed forms are maintained in the educational records of the specific child.

Disclosure without Consent

An LEA shall not release information from education records to participating agencies without parental consent unless authorized to do so under the Family

Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g.

LCPS may disclose personally identifiable information from an educational record without parental consent if the disclosure is:

1. to the parent of a student who is not an eligible student, or to the eligible student;
2. to school officials who have been determined by LCPS to have legitimate educational interest including:
 - a. members of the Eligibility Committee;
 - b. personnel responsible for the IEP;
 - c. student teachers; and
 - d. paraprofessionals;

Release of Education Records to another Public School District

LCPS may release the educational records, without parent consent, of a child who seeks to or enrolls in another Virginia public school district. The request for records may be made by:

1. the parent;
2. the eligible student; or
3. personnel of the receiving school.

Upon receipt of a request for records from the receiving district, the principal or designee documents the request on the Record of Disclosure, and provides copies (not originals) of the following special education records to the requesting public school district:

1. Child Study Minutes
2. Consent to Evaluate/Reevaluate
3. Current Eligibility Meeting summary
4. Current IEP, student performance information, and data summaries
5. Current Assessment Report and Eligibility determination
6. Initial Assessment Report and Eligibility determination
7. Consent to bill Medicaid, if appropriate.

If a parent or eligible student makes a request to the principal of the school for a copy of the educational records that have been transferred, LCPS provides a copy of all transferred records to the parent free of charge.

If LCPS receives a request from a private school or agency, the principal or designee requests that the parent sign the Consent for Release of Information before any educational records are sent.

CONFIDENTIALITY SAFEGUARDS

Records Security

LCPS ensures that the confidentiality of personally identifiable information is protected and unauthorized access is prevented at the following stages:

Persons Responsible for Ensuring Confidentiality

The Director of Pupil Personnel is responsible for ensuring the confidentiality of personally identifiable information for all students. The Director is responsible for the general supervision of all educational records related to children and youth with disabilities. Building principals have responsibility for all records maintained at the building level even though teachers may have custody of the records.

Confidentiality Training

LCPS provides training for all LCPS personnel who collect, use, or maintain personally identifiable information. When new staff are employed during the school year, the individual's immediate supervisor provides training in confidentiality issues for the new employee. Copies of documentation for confidentiality training are maintained by the DPP at the Central Office.

DESTRUCTION OF INFORMATION

The Records Retention Schedule governs the destruction of all school records, and specifies that special education records must be maintained for a specific number of years after the last activity involving special education services for the specific child. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be maintained indefinitely.

When LCPS determines that educational records are no longer needed to provide services for a child with a disability, the Director notifies the parent(s) to inform them of the date the records will be destroyed by publishing a notice in the newspaper regarding the record destruction and the date the records will be destroyed.

RIGHTS OF THE ELIGIBLE STUDENT

One year prior to the youth's eighteenth (18th) birthday, the LCPS Representative provides notice to the parent and the student that the rights regarding review, inspection, and disclosure of records will transfer to the youth at the age of eighteen (18). The notice is documented in the IEP.

The LCPS does not disclose educational records of a youth over the age of eighteen (18) to the parent without:

1. the youth's written consent;
2. a court order; or
3. proof that the youth is a dependent student as defined in Section 152 of the

Internal Revenue Code of 1954.

CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS

PRIVATE SCHOOL CHILDREN WITH DISABILITIES

CHILD FIND ACTIVITIES IN PRIVATE SCHOOLS

If, through Child Find activities, LCPS locates a child who is parentally placed in a private school in LCPS, LCPS staff cannot disclose information to the school of residence without obtaining written parental consent (

Child Tracking System

LCPS has developed and implements a child tracking system that monitors:

1. children who are in the referral and evaluation process;
2. children who are determined to have a disability;
3. children who are currently receiving needed special education and related services, including private school children receiving services as outlined in a Services Plan; and
4. children who have been determined eligible for special education and related services but are not currently receiving these services, including children in private schools who do not have a Services Plan.

Evaluation for Services

LCPS evaluates all children with suspected disabilities who attend any school within the boundaries of LCPS, according to procedures for **PROCEDURAL SAFEGUARDS** and **EVALUATION**.

Eligibility for Services

The Eligibility Committee follows LCPS established procedures for **PROCEDURAL SAFEGUARDS, EVALUATION, ELIGIBILITY**, and **IEP**.

FAPE Availability

If the IEP team determines that LCPS has an appropriate educational program for the child, and the parent chooses to place the child in a program or facility in another public school district or private organization, the parent assumes responsibility for payment for the costs incurred in educating the child.

LCPS does not pay for the education of a child with a disability in any location other than the one selected by the IEP Team if the child has a free appropriate public education available from the public school district and the parents chose to unilaterally place the child in the private school or facility.

Disagreements between a parent and LCPS regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to due

process procedures.

A parentally placed private school child with a disability has no individual right to receive FAPE.

Services Plan

A private school child with a disability who has been designated to receive services shall have a services plan that describes the specific special education or related services that the LEA will provide in light of the services the LEA has determined to provide private school children with disabilities.

If, after the COMMITTEE determines the child meets eligibility for a disability, the parents make clear their intention to enroll (or continue enrollment of) their child at a private school, the COMMITTEE does not develop an IEP for the child. The COMMITTEE may determine the child may receive services through a Services Plan that describes the special education or related services LCPS will provide according to the procedures for **Determination of Proportionate Amount of Spending in CHILDREN PLACED IN PRIVATE SCHOOLS**.

If a determination is made that the child needs special education and related services, the general rule in 34 CFR Section 300.535 (b) is that an IEP must be developed for the child in accordance with 34 CFR Section 300.340-300.350, with one important exception. If the parents make clear their intention to enroll their child at a private school and that they are not interested in a public program or placement for their child, the public agency need not develop an IEP for the child. If the parents choose not to accept the public agency's offer to make FAPE available to their child, the public agency still must include the child in its eligible population of parentally-placed private school children with disabilities, whose needs must be considered and addressed in accordance with 34 CFR Section 300.450-300.462 of the Part B regulations.

OSEP Memo, Q&A #8, May 2000

An LEA shall provide special education and related services to parentally placed private school children with disabilities in accordance with 707 KAR 1:370 Section 5, to the extent consistent with the number and location of these children enrolled in private schools located within the school district boundaries.

34 CFR 300.138 (b) (1)

A service plan shall be developed and implemented for each private school child with a disability who has been designated by the LEA to receive special education and related services.

34 CFR 300.138 (b) (2)

LCPS conducts COMMITTEE meetings for every child who is enrolled in a private school and has been evaluated by LCPS. If the child meets eligibility for a disability, and the parent of the eligible child makes clear their intention to enroll (or continue enrollment of) their child at a private school, the COMMITTEE does not develop an IEP.

The Special Education Coordinator provides a full and complete explanation of the services the child would receive if enrolled in LCPS. The COMMITTEE may determine the child may receive services through a Services Plan.

If the COMMITTEE determines the private school child with a disability will receive services from LCPS, the COMMITTEE develops a Service Plan to specify the services the child will receive. The Services Plan reflects only the services offered to the private school child with a disability.

The Director includes the child in the child tracking system as a parentally-placed private school child with a disability.

LCPS provides special education and related services as described in the Services Plan for children with disabilities enrolled in private schools. LCPS does not provide classes in the general curriculum for the private school student at the public school. For example, if parents request that in addition to receiving speech at the public school, their child also be allowed to take physics, LCPS is not obligated, and does not allow the child to take physics.

Implementation of the Services Plan

The services plan shall, to the extent appropriate:

- (a) meet the requirements of an IEP under 707 KAR 1:320 with respect to the services provided; and
- (b) be developed, reviewed, and revised consistent with the requirements to develop, review, and revise IEPs.

34 CFR 300.138 (b) (2)

If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must

- (1) initiate and conduct meetings to develop, review, and revise a services plan for the child; and
- (2) ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

34 CFR 300.137 (c)

The COMMITTEE develops, reviews, and revises the Services Plan on an annual basis, or as necessary, according to procedures for **PROCEDURAL SAFEGUARDS, IEP, and SERVICE DELIVERY**.

The Special Education Coordinator ensures a representative of the private school is included in the COMMITTEE to develop or revise a child's Services Plan. If a representative of the private agency cannot attend the COMMITTEE meeting, LCPS

uses other methods to assure the representative's participation, including individual or conference telephone calls. COMMITTEE meetings are scheduled and conducted according to procedures in **PROCEDURAL SAFEGUARDS**.

Reevaluation for Continued Eligibility

LCPS conducts three-year reevaluations of children with disabilities who attend private schools. If the child is receiving services from LCPS through a Services Plan, the Social Education Coordinator sends a Notice to the parent according to **NOTICE OF COMMITTEE MEETING** in procedures for **PROCEDURAL SAFEGUARDS**.

If the child does not receive services from LCPS, but has been previously identified as a child with a disability, LCPS sends a notice to the parent (see **CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS RESOURCES**, Letter for Withdrawal to Private School) to schedule an COMMITTEE for the purpose of reviewing current information and planning an evaluation.

Location of Services

The Director, in consultation with private school representatives, makes the decision regarding the location of services to implement the Services Plan. If the child attends a private school outside the boundaries of LCPS, LCPS may provide the services within the LCPS boundaries, or through contract with the public school district in which the private school is located. The public school district in which the private school is located is not required to contract to provide the services.

A LEA shall not be required to provide transportation from the child's home to the private school.

LCPS "works in consultation with representatives of private school children to ensure that services are provided at sites that will not require significant transportation costs."

Formal Complaint

Parents of students who are voluntarily enrolled in private schools and receiving services under a Services Plan cannot seek mediation or a due process hearing regarding the school's alleged failure to meet the requirement of providing services to the child. The parents may request a meeting to review and revise the child's Services Plan, or file a complaint with the Virginia Department of Education, according to **STATE COMPLAINT PROCEDURES** in procedures for **PROCEDURAL SAFEGUARDS**.

Due Process Procedures

In the event of disagreements between the parents and LCPS, the LCPS representative provides to the parent an explanation of the rights of the parent regarding private school placement.

Parents may only seek a due process hearing to challenge LCPS Child Find activities or failure to comply with the evaluation requirements.

CONSULTATION WITH REPRESENTATIVES OF PRIVATE SCHOOLS

A LEA shall consult in a meaningful and timely fashion with private school representatives, and parents or representatives of parent of parentally-placed school children with disabilities during the design and development of special education and related services regarding the following:

(a) the child find process, including how children suspected of having a disability can participate equitably and how parents, teachers, and private school officials will be informed of the process;

(b) the determination of the proportionate share of federal funds, including how calculated;

(c) how the consultation process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(d) how, where, and by whom special education and related services will be provided including:

1. a discussion of the types of services, including direct services and alternate service delivery methods;

2. how special education and related services will be apportioned if funds are not sufficient to serve all parentally placed private school students with disabilities; and

3. how and when those decisions will be made; and

(e) how the LEA will provide a written explanation to the private schools of the reasons why the LEA chose not to provide services directly or through a contract, if the LEA disagrees with the views of the private school representatives.

The Director sends a letter (see **CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS RESOURCES**, Form letter for Consultation) to selected representatives of private schools where residents of LCPS may attend school. The letter offers the private school representatives an opportunity for input into LCPS plans for conducting Child Find activities for private school students; funding available for services; and the number of LCPS residents with disabilities who attend private school, and the location and needs of the students. The Director maintains written records of the input received from the private school representatives.

LCPS personnel make the final determine of the types and levels of services to be provided.

Determination of Proportionate Amount of Spending

The Director ensures that the child tracking system includes information on all children with disabilities, including children with disabilities who attend private schools but are not currently receiving services. The information is used to determine the proportionate amount of funding, as well as the implementation of reevaluation timelines.

The proportionate amount is a ratio based on the total number of children who are eligible for services, not children actually served. The amount is derived from dividing the total number of parentally-placed private and home school students eligible for special education services by the total number of children with disabilities who are eligible for special education services. This provides a percent of the IDEA-B grant to spend on the parentally placed private and home school students.

Once the proportionate share of funds is calculated, the funds that are expended do not have to be Federal funds. If State categorical aid funds or local funds are used, this meets the requirement of the proportionate share of funds. Section 189 of the Virginia Constitution prohibits the appropriation, use, or aid of any non-public (private) school through state taxes levied for educational purposes (e.g., teachers paid from the district general fund cannot provide services at the private school site).