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A Family's Guide to Special Education



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THIS GUIDEBOOK IS BASED ON STATE AND FEDERAL SPECIAL EDUCATION LAWS, WHICH WERE CURRENT AT THE TIME OF PUBLICATION AND INCLUDES STANDARD LOUISIANA SPECIAL EDUCATION FORMS. HOWEVER, LAWS AND FORMS CAN CHANGE. FIND THE LATEST UPDATES ON THE LDOE [WEBSITE](#).



Welcome to the Parent Guide for Students with Disabilities

This guide is developed by **The Arc of Louisiana**, a nonprofit organization dedicated to advocating for individuals with intellectual and developmental disabilities (IDD) and their families. Our mission is to empower individuals who have disabilities and their families to achieve advancements in inclusion, education, employment, and public policy through advocacy in Louisiana. We promote and protect the human rights of people with disabilities, actively supporting their full inclusion and participation in the community throughout their lives.

For over 71 years, The Arc of Louisiana has been a trusted resource for families, providing advocacy, support, and education to empower individuals with disabilities to live to their fullest potential. We are proud to serve as a grassroots organization with over 10,000 members affiliated through 21 local chapters across the state. The Arc has been a driving force behind IDEA since its passage in 1975, which mandates that schools provide a free, appropriate public education (FAPE) to all students with disabilities, including those with IDD.

This guide is for parents of children aged 3-22 who have disabilities and are currently in school, receiving special education services. It aims to support you in navigating the special education system, understanding your child's rights, and accessing the resources and services available to them. Whether you are seeking information on the eligibility and evaluation process, Individualized Education Programs (IEPs), placement process, accommodations, transition services, or Alternative Promotion and Graduation Pathways (April Dunn Act), to name a few. This guide is here to assist parents every step of the way.

Our goal is to help you better understand how the special education process is conducted in Louisiana public schools, including charter schools. There will be information about important timelines and what is required during each step of the process, including the importance of your participation and your role in your student's education, as well as your role in developing your student's Individualized Education Program (IEP). There will also be valuable information about school policies and the requirements for schools when providing special education services to students with disabilities.

We hope you find this guide useful and encourage you to contact The Arc should you need assistance.

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Definitions and Acronyms

If, at any time, you see or hear words or acronyms that you do not understand, ask school staff to explain them right away. As an equal partner in planning, you must understand all the information you read or hear so you can help decide what is best for your student. This guide includes some of the terms and acronyms you may hear throughout the special education process.

1. **Accommodation:** Changes made in how your student is taught or tested based on his or her disability needs. Accommodation does not change what your student is taught or what your student is expected to know. Highlighted textbooks, more time to complete work when your student reads or writes slowly, and seating close to the teacher are all common accommodations. These accommodations could include instructional materials to help your student access textbooks or other curriculum.
2. **Adapted Physical Education (APE):** Physical education which has been adapted or modified so that it is as appropriate for a student with a disability as it is for a student without a disability. **Advocate:** An attorney or non-attorney with specialized knowledge or skill in helping parents and students resolve problems with schools. Parents are their students' first and often most effective advocates.
3. **Alternative Education Placement (AEPs):** Disciplinary programs operated by school districts for students who have committed a range of offenses listed in state law and/or in the LEA's Student Code of Conduct.
4. **Assessment:** Assessments are tests given to all students. Students with disabilities may need accommodation, which will be written in the IEP. Certain students may need an alternate assessment when they cannot participate in regular assessments, even with accommodation.
5. **Assistive Technology (AT):** Any items, pieces of equipment, or products used to increase, maintain, or improve the way your student functions. Assistive technology devices for students with disabilities may be used to assist with seating and positioning, mobility, communication, computer access and instruction, and self-care.
6. **Behavior Intervention Plan (BIP):** Lists supports and services the LEA will give your student to increase positive behavior and to reduce the impact of negative behavior on learning.
7. **Student Find:** A continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and refer as early as possible all young students with disabilities and their families
8. **Dispute Resolution:** Parents and LEAs work together to resolve disagreements concerning special education, preserving the relationships necessary for student success. Dispute Resolution options include IEP facilitation, mediation, informal and formal complaints, and due process hearings.
9. **Early Childhood Special Education (ECSE):** Students with disabilities, birth through five years of age, may qualify for special education services. Students

aged 0-2 receive early intervention services through the Department of Health and Hospitals. Students aged 3-5 receive IEP services through the LEA.

10. **Every Student Succeeds Act (ESSA):** Federal legislation reauthorizing the 50-year-old Elementary and Secondary Education Act and revising many provisions of what was known as No Student Left Behind (NCLB).
11. **The Elementary and Secondary Education Act** Is the United States' national education law and longstanding commitment to equal opportunity for all students.
12. **Early Resolution Process (ERP):** An opportunity for families and LEA staff to attempt to resolve disputes prior to the exercise of the LDOE's supervisory jurisdiction in addressing allegations that the LEA is violating a requirement of the IDEA.
13. **Equitable Services:** Special education services made available to students with disabilities who are parentally placed in a private school.
14. **Extended School Year Services (ESYS):** Services provided in the summer to some students with disabilities who require services as a part of their free, appropriate, public education. ESYS services must be provided according to the IEP and at no cost to you.
15. **Free Appropriate Public Education (FAPE):** Special education and/or related services designed to meet the individual needs of each student at no cost to you, guaranteed to all eligible students with disabilities by the Individuals with Disabilities Education Act (IDEA).
16. **Functional Behavior Assessment (FBA):** A set of activities used to find out the cause of a student's behavior before deciding what to do to change the behavior (intervention).
17. **Individual Education Program (IEP):** An individualized plan developed by parents and school staff that describes the special education and related services to be given to a student who receives special education. It must be reviewed and, if needed, revised at least once each year.
18. **Individuals with Disabilities Education Act (IDEA):** Federal legislation designed to make sure school districts provide a free, appropriate public education to students with disabilities that will prepare them for further education, employment, and independent living.
19. **Least Restrictive Environment (LRE):** To the maximum extent appropriate, students with disabilities are educated with students who are not disabled, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only when the nature or severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
20. **Local Education Agency (LEA):** A public agency which supervises the provision of instruction or educational services to the community. People often use the term "school district" to refer to the LEA. LEAs may supervise multiple schools or, in the case of charter schools, may be comprised of only one school.

21. **Louisiana Department of Education (LDOE):** The state agency responsible for supervising the LEAs to ensure that students with disabilities enrolled in public schools get a free appropriate public education (FAPE).
22. **Louisiana Student Standards:** New academic standards based on research and developed by a collection of teachers, school leaders, and education experts. The Student Standards define what students need to learn in each grade to stay on track to a college degree or a professional career.
23. **Manifestation Determination Review (MDR):** A meeting to review the relationship between a student's disability and his or her behavior that needs disciplinary action.
24. **Modifications:** Modifications, unlike accommodations, change the level of instruction provided or tested. Modifications create different standards for students who receive them. The most common modifications are those made to the general education curriculum for a student with a significant cognitive disability.
25. **Parent:** A biological, or adoptive parent of a student; a foster parent; a guardian generally authorized to act as the student's parent, or authorized to make educational decisions for the student, but not the state if the student is a ward of the state; an individual acting in the place of a biological or adoptive parent with whom the student lives, or an individual who is legally responsible for the student's welfare; or a surrogate parent who has been appointed in accordance with law.
26. **Procedural Safeguards:** Protections designed to defend the rights of students with disabilities and their parents. Safeguards include the right to participate in IEP meetings, examine educational records, participate in complaint and due process procedures, and many other protections under the IDEA. Your procedural safeguards are included in this guide.
27. **Response to Intervention (RTI):** The Response to Intervention (RTI) process is a three-tiered approach to providing services and interventions to struggling learners and/or students with challenging behaviors at increasing levels of intensity.
28. **School Building Level Committee (SBLC):** A group that meets regularly to discuss concerns from teachers, parents, or other professionals on individual students having trouble in school because of academic and/ or behavior problems. The SBLC shall review and analyze data, including RTI results, to determine the most beneficial options for the student. Section 504: The common name for the federal law that prohibits discrimination against students with disabilities.
29. **Section 504 (of Public Law 93-112, the Rehabilitation Act of 1973)** applies to any agency, public or private, which receives federal funds. Services are typically provided in the form of accommodation.
30. **State Board of Elementary and Secondary Education (BESE):** The administrative body overseeing all Louisiana public elementary and secondary schools. BESE adopts regulations and enacts policies governing the operations

of schools under its jurisdiction, exercising budgetary oversight of their educational programs and services.

31. **Supplementary Aids and Services:** The term used in IDEA to describe those aids, services, and other supports given in general education classes, extracurricular activities, and non-academic settings, so that a student with a disability can be educated with students who do not have disabilities.
32. **Universal Design for Learning (UDL):** A way of designing instruction that allows equal access to content to be used by people with the widest possible range of abilities.
33. **Crisis Intervention:** The implementation of an action plan for school personnel to use when a student exhibits disruptive behaviors that prevent the student from participating in classroom or daily activities. Information about a school's use of crisis intervention, including the proper use of seclusion and physical restraint, shall be included in the school's student handbook and made available to the parent and legal guardian of each student with an IEP or Behavioral Intervention Plan (BIP).
34. **Imminent Risk of Harm:** An immediate and impending threat of a person causing substantial injury to self or others.
35. **Mechanical Restraint:** The application of any device or object used to limit a person's movement
36. **Physical Restraint:** The use of manual restraint techniques that involve physical force applied to restrict the movement of all or part of a person's body
37. **Positive Behavioral Interventions and Support:** A systematic approach to embed evidence-based practices and data-driven decision making when addressing student behavior in order to improve school climate.
38. **Seclusion:** A procedure that isolates and confines a student in a designated separate room or area until the student is no longer at an imminent risk of harm to self or others.
39. **Seclusion Room:** A room or other confined area, used on an individual basis, in which a student is removed from the regular classroom setting for a limited time to allow the student the opportunity to regain control in a safe, secure, and supervised setting and from which the student is involuntarily prevented from leaving, until the student is no longer at risk of imminent harm to self or others.
40. **School Employee:** A teacher, paraprofessional, administrator, support staff member, or a provider of related services.
41. **School Health Designee:** A school employee designated to assess the use of seclusion and physical restraint if a school nurse is not present on a school campus at the time such measure is used.

42. **Sensory Room:** A room or space that is used for the monitored or timeout space. The appropriate use of sensory rooms shall not be considered seclusion, which shall only be used for the limited purpose of responding to a student posing an imminent risk of harm to self or others.
43. **Written Guidelines and Procedures:** The written guidelines and procedures adopted by a public-school governing authority regarding appropriate responses to student behavior that may require immediate intervention.

I. Understanding State & Federal Special Education Law

What is Special Education?

The term “special education” encompasses educational programs that serve students with mental, physical, emotional, and behavioral disabilities. In practical terms, special education is largely defined by the federal [Individuals with Disabilities Education Act](#), or IDEA, which guarantees a “free, appropriate public education” to students with disabilities and mandates that, to the “maximum extent appropriate,” they be educated with their nondisabled peers in the “least restrictive environment.”

The landmark IDEA law, first enacted in 1975 as the Education for All Handicapped Students Act, set in motion a tidal wave of change, bringing into the public schools more than 1 million students with disabilities who previously had been shut out of school or received limited educational services. Prior to the passage of the law, the standards for educating students with disabilities varied tremendously among states.

In addition to advancing the inclusion of special education students in general education classrooms, IDEA has brought attention to the academic performance of students with disabilities. The law mandates that instructional road maps, known as Individualized Education Programs (IEPs), be created for each student with a disability. The 1997 reauthorization of the law required special education students to participate in state tests and states to report the results of those tests to the public. However, IDEA imposed almost no consequences on states that did not comply, and many states were slow to meet the law’s mandates. It was not until the passage of the No Child Left Behind Act of 2001 that states enacted significant, large-scale changes to their testing and accountability systems to increase participation in the core curriculum for students with disabilities.

Although parents often play an important role in securing special education services for their students, much of the responsibility of helping students with disabilities succeed in the classroom falls to teachers. General educators, who typically have more experience teaching a specific subject area, must be able to work effectively with students with

special needs, but they are not required to be highly qualified to teach students with disabilities.

IDEA and Louisiana's special education laws require all schools to ensure that all identified students with disabilities have the right to a free appropriate public education (FAPE).

FAPE means special education and related services that:

- are provided at public expense, under public supervision and direction, and without charge.
- meet the standards of the Louisiana Board of Elementary and Secondary Education (BESE).
- include an appropriate preschool, elementary school, middle school, or secondary school education in the state; and
- are provided in keeping with an individualized education program (IEP).

The provision of FAPE also requires that the services provided to a student with a disability address all the student's identified special education **and** related services needs. The services and educational placement must be based on the students' unique needs and not solely on the students' disability.

IDEA's definition of a "student with a disability" lists 13 different disability categories under which a student may be found eligible for special education and related services.

• Autism • Deaf-Blindness • Developmental Delay • Emotional Disturbance • Hearing Impairment • Intellectual Disabilities • Multiple Disabilities • Orthopedic Impairment • Other Health Impairment • Specific Learning Disability • Speech or Language Impairment • Traumatic Brain Injury • Visual Impairment

A. Laws and Regulatory Bulletins

The following federal and state laws or regulations guarantee that a student with a disability has a full educational opportunity to benefit from a free, appropriate public education (FAPE). State-published regulatory bulletins are available to you through the local education agency and the Louisiana Department of Education (LDOE).

Federal Laws:

- Individuals with Disabilities Education Act (IDEA)
- Section 504 of the Rehabilitation Act of 1973
- Family Education Rights and Privacy Act (FERPA)
- Americans with Disabilities Act of 1990 (ADA)
- State Laws R.S. 17:1941, et seq. (R.S. 17: 1944.B (8, 11, & 20))

BESE Regulations and Bulletins:

- Bulletin 1706: Regulations for Implementation of the Students with Exceptionalities Act
- Bulletin 1508: The Pupil Appraisal Handbook
- Bulletin 1573: Complaint Management Procedures
- Bulletin 1530: Louisiana's IEP Handbook for Students with Disabilities

You can access these bulletins on the BESE website under the [Policies/Bulletins tab](#).

B. Other Laws for Students with Disabilities

The U.S. Department of Education's Office for Civil Rights ([OCR](#)) provides additional resources of interest for individuals with disabilities and their families. OCR does not enforce the IDEA; however, OCR does enforce the Rehabilitation Act of 1973, Section 504, and the Americans with Disabilities Act of 1990, Title II rights of IDEA-eligible students with disabilities.

Section 504 is a federal law designed to protect the rights of individuals with disabilities in programs and activities that receive Federal financial assistance from the U.S. Department of Education (ED). Section 504 provides: "No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ."

Section 504 requires recipients to provide students with disabilities appropriate educational services designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. An appropriate education for a student with a disability under the Section 504 regulations could consist of education in regular classrooms, education in regular classes with supplementary services, and/or special education and related services. A written Section 504 Plan is often used to document that the school division engaged in a process to identify and address the needs of a student with a disability and to communicate to school personnel the information needed for successful implementation. Note, though, that IDEA-eligible students with disabilities who have an IEP are not required to also have a Section 504 plan even though they are protected under Section 504. For these students, the IEP developed and implemented in accordance with the IDEA is sufficient.

OCR also enforces Title II of the [Americans with Disabilities Act of 1990](#), which extends protection against discrimination to the full range of state and local government services, programs, and activities, including public schools, regardless of whether they receive any Federal financial assistance.

II. An Overview of the Special Education Process

Special education refers to individualized instruction designed to meet the unique needs of students with disabilities. It includes instruction conducted in a classroom, at home, in

a hospital, in an institution, or other settings, at no cost to the parent. It also includes instruction in physical education. The term “at no cost to the parent” means that the school division pays for all specially designed instruction. However, a fee, such as an activity fee, which is charged to all students as part of the general educational program, may be required.

There are five steps in the special education process, and each step builds on the previous one.

1. Identification and Referral - When it is suspected that a student may have a disability, a referral, which is a written or oral request for an evaluation, is given to the school. There are several ways to make a referral, which will be explained in more detail below. Having a disability is the first question when determining if a student qualifies. According to the Individuals with Disabilities Education Act (IDEA), your student’s Local Education Agency (LEA) has an obligation called Child Find. Child Find requires LEAs to ensure that all students with disabilities who may need special education and related services are identified, located, and evaluated. Parents and guardians may also request an evaluation to determine if their student is a student with a disability. The LEA may refuse this request but must provide you with a written explanation of the reason for the denial.

2. Evaluation - The school then evaluates the student to determine whether he or she has a disability, as well as the nature and extent of the special education and related services that the student needs. This first evaluation is called an initial evaluation, and you, as the parent, must agree to the evaluation for your student to participate. If you agree, the evaluation must take place within 60 business days following receipt of written consent from parents. This initial evaluation determines whether your student has a disability and needs special education and related services. The evaluation team must also answer two additional questions:

- Does the disability impact on the student’s educational progress?
- Does the student need specially designed instruction (which is the IDEA definition of special education)?

The assessments are diagnostic tools; they do not contain answers or solutions. These tests are designed to provide an overview of your student’s academic performance, basic cognitive functioning, and/or his or her current strengths or weaknesses; they can also test hearing and vision.

The school **must** obtain parental permission and receive written consent before evaluating the student. Once consent is provided, the evaluation must be conducted within **60 business days**. You can refuse the initial evaluation, but you should be aware that the LEA can seek to conduct an evaluation by following the legal procedures described in this guide. RTI stands for “Response to Intervention” and is used to identify students with learning disabilities or other academic delays.

The Response to Intervention (RTI) process is a three-tiered approach to providing services and interventions to struggling learners and/or students with challenging behaviors at increasing levels of intensity.

Essential components of the process include three tiers of instruction and intervention, use of standard protocols and/or problem-solving methods, and an integrated data collection/assessment system to inform decisions at each tier of instruction/intervention. The process incorporates increasing intensities of instruction and/or intervention, provided to students in direct proportion to their individual needs.

Embedded in each tier is a set of unique support structures or activities that help teachers implement, with fidelity, research-based curricula, instructional practices, and interventions designed to improve student achievement.

RTI is designed for use when making decisions in both general and special education, creating a well-integrated system of instruction and intervention guided by student outcome data. **RTI can NOT be used to delay an evaluation! If you have requested an 1508 evaluation, RTI can be done during the evaluation process.**

A. The IEP Team

- Parent
- At least one regular education teacher, if the student is or may be participating in the regular educational environment.
- At least one of the student's special education teachers or service providers.
- A school administrator who knows about policies for special education, about students with disabilities, about the general education curriculum (the curriculum used by students who do not have disabilities), and about available resources.
- Someone who can interpret the evaluation results and talk about what instruction may be necessary for the student.
- Individuals (invited by the parent or the school) who have knowledge or special expertise about the student.
- The student, if appropriate.
- Representatives from any other agencies that may be responsible for paying for or providing transition services (if the student is age 16 or, if appropriate, younger and will be planning for life after high school); and
- Other qualified professionals.

3. Determination of Eligibility - Based on the evaluation results, a team determines whether the student is eligible to receive special education and related services. To be found eligible, the team must decide that the student has a disability and, as a result, needs special education and related services.

4. The Individualized Education Program (IEP) and Review - If a student is eligible to receive special education and related services, a team then develops and implements

an appropriate IEP to meet the needs of the student. This team also decides the services the student will receive. The IEP must be reviewed and revised at least once a year. The IEP has two general purposes: (1) to set learning goals for the student; and (2) to state the support and services that the school district will provide for the student.

- IDEA gives the school district **30** days from the documentation of the disability to complete an IEP. Parents *must* give permission for placement as part of the initial IEP.
- The team will determine the most appropriate environment for your student.
- Your student is entitled to receive services in an environment that is as close to the general education setting as possible.
- The IEP team will also discuss classroom accommodations and specialized services, such as speech therapy, occupational therapy, and adaptive physical education.
- The IEP Team will meet at least once a year to review and revise a student's IEP. The IEP Team addresses:
 - Progress or lack of progress toward the student's annual goals.
 - The results of any reevaluation.
 - Information provided to or by the parent.
 - The students' anticipated needs.

Parents/Legal Guardians are a very important part of the IEP team. Your student's school will take steps to make sure you can participate in the creation of your students' IEP. The Arc of La recommends that parents/legal guardians communicate via email to create record of conversations. You have the right to be notified of the meeting in advance, who will be attending the meeting and to have the meeting at a time and place that is convenient for you.

5. Triennial Reevaluation - At least every three years, a team must reevaluate the student to determine whether the student continues to require special education and related services, unless the parent and the school agree that a reevaluation is not necessary. The Arc of Louisiana does NOT recommend ever waiving a Triennial Evaluation.

**Parents and/or schools may request triennial reevaluations more frequently than every three years, if necessary.*

Through this five-step process, all relevant and comprehensive information is gathered and considered by a group of people, including the parent, within specific timelines and with certain procedural safeguards. Timelines help to prevent any delay. Procedural safeguards, which are rights given to the parent of the student with a disability, ensure that the student is provided with a free, appropriate public education (FAPE). A parent's involvement in each step of the process is vital.

Special education law defines the parent as:

- Biological or adoptive parent.
- Foster parent, if the biological or adoptive parent's educational rights have been terminated or under specific circumstances (refer to Note below);
- Guardian, authorized to act as the student's parent or to make educational decisions (but not guardian ad litem [GAL]).
- A person acting in place of a parent (such as a grandparent, stepparent, or other relative) with whom the student lives, or a person legally responsible for the student's welfare.
- Surrogate parent who the school division appoints if no parties can be identified who meet the definition of parent or who are willing to act as a parent.
- An emancipated minor or validly married minor may also assume the responsibilities of a parent; or
- In the case of unaccompanied homeless youth, a temporary surrogate may act as the parent until a surrogate can be appointed.

There may be situations in which several parties meet the definition of parent. When attempting to act as the parent, the biological or adoptive parent shall be presumed to be the parent unless educational decision-making rights have been terminated.

Note: If a student is living with a foster parent but the biological parental rights have not been terminated, the school division will allow the foster parent to act as a parent. The school division **must** send a written notice to the biological or adoptive parent stating that school personnel will rely on the foster parent to make decisions regarding the student's special education program. These decisions pertain to matters related to the student's IEP services and placement, as well as eligibility determinations. The school division will send the parent this written notice at the beginning of the school year or at any time throughout the year when a meeting is held related to the student's IEP or eligibility for special education and related services.

B. Reevaluations

A reevaluation of each student with an exceptionality **must** be conducted when one of the following events occurs:

1. When the LEA determines that the educational or related services needs, including improved academic achievement and functional performance of the student, warrant a reevaluation.
2. When the student's teacher or parent requests a reevaluation in writing.
3. When a significant change in placement is proposed, which means moving the student to a more restrictive environment where the student will be in the regular class less than 40 percent of the day or, for a student aged four through five, in the regular early childhood program less than 40 percent of the time; or

4. When a student is no longer suspected of having an exceptionality, or no longer needing related services. This includes students having the single exceptionality of speech and language impairment.

A triennial evaluation may be necessary if there is not adequate data to determine whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals in the IEP and to participate, as appropriate, in the general education curriculum.

C. Independent Educational Evaluation (IEE)

Parents/Legal Guardians have the right to obtain an independent educational evaluation (IEE) for your student if you disagree with the evaluation of your student that your LEA obtained. If you request an IEE, the LEA must provide you with information about where you may obtain an IEE and about the LEA's criteria that apply to IEEs. If they recommend another school district you have the legal right to request additional private options.

Definitions

1. Independent Educational Evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of your student.

D. Parental Right to Evaluation at Public Expense

You have the right to an IEE for your student at public expense if you disagree with an evaluation of your student obtained by your LEA, subject to the following conditions:

1. If you request an IEE for your student at public expense, your LEA must, without unnecessary delay, either:
 - a. File a due process complaint to request a hearing to show that its evaluation of your student is appropriate; or
 - b. Provide an IEE at public expense, unless the LEA demonstrates in a hearing that the evaluation of your student that you obtained did not meet the LEA criteria.
2. If your LEA requests a due process hearing and the final decision is that your LEA's evaluation of your student is appropriate, you still have the right to an IEE, but not at public expense.
3. If you request an IEE of your student, the LEA may ask why you object to its evaluation. However, your LEA may not require an explanation. It may not unreasonably delay either providing the IEE of your student at public expense or filing a due process complaint to request a due process hearing to defend the LEA's evaluation of your student.

**** You are entitled to only one IEE at public expense each time the LEA conducts an evaluation with which you disagree.**

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the LEA uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).

Except for the criteria described above, the LEA may not impose conditions or timelines related to obtaining an IEE at public expense.

E. Parent-Initiated Evaluations

If you obtain an IEE for your student at public expense or you share with the LEA an evaluation of your student that you received at private expense:

1. Your LEA must consider the results of the evaluation of your student, if the IEE meets the LEA's criteria for IEEs, in any decision made with respect to the provision of a FAPE to your student; and
2. You or your LEA may present the evaluation as evidence at a due process hearing regarding your student.

F. Transfer of Rights

Act 689 of the 2024 Regular Legislative Session requires LEAs to provide certain information related to children's attainment of the age of majority at the first IEP meeting of the school year for each child who is fifteen, sixteen or seventeen who participates in alternate assessment. The following information is not intended to be legal advice, and LEAs shall have no liability for claims arising from the following information.

When a student with a disability reaches the age of majority, which is age eighteen in Louisiana (except for a student with a disability who has been determined, under applicable state laws, to lack the capacity to make educational decisions), the LEA must:

1. Provide any notice required to both you and your child;
2. Transfer all other rights accorded to you to your child; and
3. Transfer all rights accorded to you to your child who may be incarcerated in an adult or juvenile, state, or local correctional institution.

A parent or guardian may continue to participate in educational decisions at the student's request, regardless of the student's age.

G. Capacity to Provide Consent

In some rare circumstances, a child may lack the capacity to make decisions for themselves and require a parent to continue making decisions even after the age of majority. These circumstances are not common. It should be noted that making bad decisions is not the same as lacking the capacity to make decisions.

In the event the child cannot make decisions independently, less restrictive options must be considered and attempted before more restrictive options are considered. Alternatives such as:

1. The child may provide consent for continued parental involvement;
2. Supported Decision Making;
3. Power of Attorney (once the child turns 18 years of age).

If the child is unable to make decisions, a change in the child's legal status may be warranted. Continuing tutorship is one option (for children between the ages of 15-18), which would essentially cause the child to be a permanent minor. Many of the child's rights would be retained by the parent, such as the right to enter contracts or make medical decisions. Once the child turns 18, the option is an interdiction, which would mean either some or all of the child's rights would be transferred to another person.

H. Legal Options in Louisiana

Supported Decision-Making (SDM)

A new legal option that enables individuals with disabilities to make informed choices about their own lives with support from a team of their choosing. Individuals with disabilities often choose people they know and trust to be part of their support network, which helps with decision-making.

Supported Decision-Making is an alternative to the most restrictive options, such as Continuing Tutorship and Interdiction. Instead of having someone else decide *for* the person with a disability, Supported Decision-Making allows the person with the disability to make their own decisions.

Power of Attorney (POA)

A legal document that allows someone else to act on your behalf. The person you give the POA to is called your agent, attorney-in-fact, or substitute decision-maker. You, the person giving the POA, are called the principal.

The POA can give your agent general or limited authority to act on your behalf, and it can be temporary or permanent. The Power of Attorney can be customized to suit your specific needs and circumstances. For example, you could give your agent the power to make medical decisions, pay bills, or sell your home. You can also limit the agent's authority to specific accounts or tasks, such as giving each agent different powers over your finances. A Power of Attorney is less restrictive than an Interdiction because it involves a Principal sharing decision-making authority with their agent. The principal can revoke the Power of Attorney at any time, meaning it can be canceled. Powers of Attorney generally do not require court approval to create or to cancel.

Release of Information

It is against the law for certain types of providers, such as medical providers, banks, or schools, to share personal information about their patients/clients with others. Signing a release allows a provider to share information with another person of an individual's choosing. For example, a client or patient may sign a release to allow their doctor to discuss their personal healthcare information with their parents. Or, a person may sign a release with the school to share certain information with their parents. A release does not allow the other person to make decisions on behalf of the individual; it only provides information to be shared. A release can be changed or revoked at any time by notifying the provider. It is recommended that this issue be included in the Supported Decision-Making Agreement.

An Able Account

A tax-advantaged savings accounts for individuals with disabilities and their families. Legislation describes it as: "secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary's employment and other sources" www.able.osfa.la.gov

The Representative Payee Program is Offered through the Social Security Administration

Allows a representative to manage a beneficiary's Social Security or SSI payments. A representative may be responsible for utilizing benefits to cover an individual's expenses and tracking expenditures. Typically, a family member or another trusted adult is chosen to fill this role. However, one may be appointed through the Administration.

Continuing tutorship

A legal procedure that gives a parent the authority to make decisions for a child with an intellectual disability who is between the ages of 15 and 18. The person making decisions is called the child's "tutor". The tutorship allows the tutor to continue making decisions on behalf of the child indefinitely. In this way, the child is treated like a minor, even though they are legally an adult.

An interdiction

A legal process where a court is asked to determine, from testimony and other evidence presented, whether an individual age 18 or older is unable, due to an infirmity, to consistently make reasoned decisions regarding his person and/or his property, or to communicate those decisions.

III. The IEP and Determination of Services

An IEP is a [document](#) designed to meet the student's unique needs and must be in effect:

- At the beginning of each school year.
- Before special education and related services are provided for the student.
- As soon as possible after the parent consents to the IEP.

The school must implement the student's IEP as written, for which the parent provided consent. The school must also ensure that the student's IEP is available to all the student's teachers and service providers, and to other school personnel who may be responsible for implementing the student's IEP. The students' teachers and service providers must be told of their specific responsibilities for implementing the IEP and about the IEP's content.

A. Timeline

An initial evaluation is considered "completed" when the written report has been disseminated by the pupil appraisal staff to the administrator of special education programs. A LEA has a maximum of **30 calendar days** to complete the IEP/placement document for an eligible student.

During this time, two activities shall take place and be documented.

1. Written Notice. Written notice that the LEA proposes to provide FAPE through the IEP process shall be given to the parents.
2. An IEP Team meeting that results in a completed IEP/placement document shall be held. This meeting should serve as a vehicle for communication between parents and school personnel to share formal and informal information about the students' needs, educational projections, and services that will be provided to meet those needs. The completed IEP/placement document is a formal record of the IEP Team's decisions. The timeline for completing the document is intended to ensure that there is no undue delay in providing a free and appropriate public education (FAPE) for the student.
 - A LEA shall begin providing services as stated on the IEP as soon as possible but no later than ten (10) school days. The date of initiation of services shall be noted on the IEP.
 - Students who have been receiving special education in one LEA in Louisiana who transfer to another LEA within Louisiana shall be enrolled in the appropriate special education program in the receiving LEA with the current IEP or the development of a review IEP within five school days of the transfer.

**When an initial evaluation report has been completed within the 30 days prior to the summer recess or during the recess, the LEA may request, through written documentation, parental approval to delay the initial IEP Team meeting until the first week of the next school session. However, when the parents wish to meet during the*

*summer recess, the LEA shall ensure that the appropriate IEP Team members are present. **

B. Parental Consent

Parental consent means:

- You have been fully informed in your native language or other method of communication of all information about the action for which you are giving consent.
- You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; and
- You understand that your consent is voluntary on your part, and you may withdraw your consent at any time. Your withdrawal of consent does not negate an action that occurred after you gave your consent and before you withdrew it.

C. Parental Consent for Initial Evaluation

Your LEA cannot conduct an initial evaluation of your student to determine whether your student is eligible to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent.

Your LEA must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your student is a student with a disability. Your consent for the initial evaluation does not mean that you have also given your consent for the LEA to start providing special education and related services to your student.

If you refuse to provide consent or fail to respond to a request to provide consent for an initial evaluation, your LEA may, but is not required to, seek to conduct an initial evaluation of your student by utilizing the mediation or due process complaint, resolution meeting, and impartial due process hearing procedures.

Your LEA will not violate its obligations to locate, identify and evaluate your student if it does not pursue an evaluation of your student in these circumstances.

D. Special Consent Rules for Initial Evaluation of Wards of the State

Ward of the State means a student who is:

- A foster child.
- Considered a ward of the state under Louisiana state law; or
- In the custody of a public child welfare agency.

Ward of the state does not include a foster child who has a foster parent who meets the definition of a parent. If a student is a ward of the state and is not living with his or her parent, the LEA does not need consent from the parent for an initial evaluation to determine if the student is a student with a disability if:

1. Despite reasonable efforts to do so, the LEA cannot find the student's parent(s);
2. The rights of the parents have been terminated in accordance with the state law; or
3. A judge assigned the right to make educational decisions and to consent for an initial evaluation to an individual other than the parent.

E. Parental Consent for Services

Your LEA must obtain your informed consent before providing special education and related services to your student for the first time. Your LEA shall make reasonable efforts to obtain your informed consent. If you do not respond to a request to provide consent for your student to receive services for the first time, or if you refuse to give such consent, your LEA may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your student's IEP team) may be provided to your student without your consent.

If you refuse to give consent for your student to receive special education and related services for the first time, or if you do not respond to a request to provide such consent and the LEA does not provide your student with the special education and related services for which it sought your consent, your LEA:

1. Is not in violation of the requirement to make a FAPE available to your student; and
2. Is not required to have an IEP meeting or develop an IEP for your student.

F. Parental Consent for Reevaluations

Your LEA must obtain your informed consent before it reevaluates your student, unless your LEA can demonstrate that:

1. It took reasonable steps to obtain your consent for your student's reevaluation;
2. You did not respond.

If you refuse to consent to your student's reevaluation, the LEA may, but is not required to, pursue your student's reevaluation.

With initial evaluations, your LEA does not violate its obligations under the IDEA if it declines to pursue the reevaluation. Other Consent Requirements: Your consent is NOT required before your LEA may:

- Review existing data as part of your student's evaluation or reevaluation; or
- Give your student a test or other evaluation that is given to all students unless, before the test or evaluation, consent is required from all parents of all students.

Your LEA may not use your refusal to consent to one service or activity to deny you or your student any other service, benefit, or activity. If you have enrolled your student in a private school at your own expense or if you are home schooling your student, and you do not provide your consent for your student's initial evaluation or your student's reevaluation, or you fail to respond to a request to provide your consent, the LEA may not use measures such as mediation or due process hearing procedures and is not required to consider your student as eligible to receive equitable services.

G. Revocation of Parental Consent

If, at any time after the initial provision of special education and related services, you revoke consent in writing for the continued provision of special education and related services, the LEA may not continue to provide these services to the student but must give prior written notice before ceasing the services.

The LEA may not use mediation or due process hearing procedures to obtain agreement or a ruling that the services may be provided to the student. If you revoke your consent for the continued provision of special education and related services to your student, the LEA:

1. Will not violate the requirement to make a FAPE available for its failure to provide the student with further special education and related services to your student; and
2. Is not required to convene an IEP team meeting or develop an IEP for the student for further provision of special education and related services.

If you revoke consent in writing for your student's receipt of special education services after the student is initially provided special education and related services, the LEA is not required to amend your student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

IV. The Three Types of IEPs for Students with Exceptionalities

- The Initial IEP:
Developed for a student with an exceptionality who has met criteria for one or more exceptionalities outlined in Bulletin 1508, Pupil Appraisal Handbook, and

who has never received special educational services, except through an interim IEP, from an approved Louisiana school/program.

- The Review IEP:
Reviewed and revised at least annually, or more frequently as needed, to consider the appropriateness of the program, placement, progress in the general education curriculum, and any related services required by the student.
- The Interim IEP:
 - A. Placement Decisions. Local directors/supervisors of special education may approve enrollment in special education after pupil appraisal personnel have reviewed existing student information.
 1. An interim IEP may be developed for students transferring from out-of-state who were receiving special educational services, concurrent with the conduct of an initial evaluation according to the Bulletin 1508, Pupil Appraisal Handbook.
 2. An interim IEP may be developed concurrent with the conduct of an initial evaluation for students out of school, including students ages three-through-five who are suspected of having a disability, and for former special education students, through the age of twenty-two, who have left a public school without completing their public education by obtaining a state diploma.
 3. Formal written parental consent shall be obtained for a multidisciplinary evaluation to be conducted according to Bulletin 1508; Pupil Appraisal Handbook and an interim IEP may be developed.
 - a. During the time the evaluation is in process, all regulations shall apply.
 - b. If an interim IEP were developed, it may be amended as necessary.
 4. Parents of these students shall be informed at the interim IEP Team meeting that the evaluation results must classify a student as exceptional for that child to remain in the special education program.
 5. An interim IEP shall not be developed when a student has a current IEP or evaluation.
 - B. Parental Consent. Parental consent for the interim placement and related services shall be obtained by parental signature on the IEP form.
 1. Parents shall be informed that the student will exit from the special education program when the student is found to be ineligible for special educational services according to the criteria in Bulletin 1508, Pupil Appraisal

Handbook. A statement stating the above should be written in the comment section of the IEP when it is developed.

2. When the student is eligible for special educational services, an initial IEP/placement meeting will be conducted within 30 calendar days from the date of dissemination of the written evaluation to the LEA's special education administrator.

C. Program Considerations. In the development of the IEP, the IEP Team's discussion about the current performance and goals for the student will have to be conducted without the benefit of integrated assessment data or teacher observation.

1. To gather information about current performance, the parent may be the prime source of information about the student's skills, development, motivation, learning style, etc.

2. The goals should address the student's educational program during the assessment process.

3. When available information indicates that related services are required, services should be provided.

4. The student's performance during an interim placement shall be documented by the teacher and pupil appraisal personnel. This documentation should provide meaningful data for determining an appropriate program and placement.

A. IEP Amendments

Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting or by amending the IEP rather than by redrafting the IEP. The LEA must ensure that the student's IEP Team is informed of those changes. This includes amendments to related services such as (OT, PT, APE, ST).

A parent must be provided with a revised copy of the IEP that incorporates the amendments.

B. The IEP Team

Parents are equal participants in the IEP process, discussing the educational and related service needs of the student and deciding which placement and other services are appropriate.

- At least one of the students' general education teachers if the student is or may be participating in general classes.

- At least one special education teacher or related service provider of the student (this person must be serving the student if the student is participating in special education; if the student's only disability is speech-language impairment, the special education provider must be the speech-language pathologist).
- A person from the school who is qualified to provide or supervise the provision of special education and knows about the general curriculum and about available resources (this person may be another member of the team).
- A person who can interpret what the tests mean for the student (this person also may be another member of the team, other than the parent or the student).
- Other people who are invited at the parents' or the school's discretion and who have knowledge or special expertise about the student, including related services personnel, as appropriate (the person inviting another individual makes the decision that the invited individual has knowledge or special expertise about the student); and
- The student, if appropriate.

The school will decide who from the school will fill these roles. Required members of the students' IEP Team are not required to attend the IEP meeting, in whole or in part, if the required member's specialty area will not be discussed at the meeting, and the parents and the school agree in writing that the IEP Team member does not need to attend. Required members of the IEP Team may be excused from attending the IEP Team meeting, in whole or in part, when the meeting involves modification to or discussion of the member's specialty, if the parent consents in writing to the IEP Team member being excused, and, before the meeting, the member has provided written input into the development of the student's IEP. The parents must consent to sharing educational information about the student with a person not employed by the school before that person may participate in the meeting.

There may be other participants in an IEP meeting in certain circumstances:

If the meeting concerns secondary transition services for the student, then the school must invite the student and, with the parent's consent, someone from any agency that is likely to be responsible for providing or paying for the transition services. If either the student or the agency is unable to attend the meeting, the school will take steps to include them in the planning of secondary transition services.

The IEP meeting notice must:

- State that the purpose of the meeting is the consideration of transition services needed.
- State that the school will invite the students, and

- With parental consent for the invitation, identify any other agency that will be invited to send a representative.
- If any accommodations or modifications are written into the IEP for the student to access transportation, someone from transportation may be invited or consulted before the IEP is written.
- If a preschool student has been served under Part C, but will now receive services from the local school, the school shall, at the parent's request, invite the Part C service coordinator to attend the student's first IEP meeting.

If the student has been receiving special education from a public school either in Louisiana or another state, and then transfers to another public school in Louisiana, the new public school must consult with the parent and ensure that the student receives services comparable to those received in the previous school, until it either:

- Adopts and uses the existing IEP of the previous school with parent consent; or
- Conducts an evaluation, if it determines one is necessary, and develops and implements a new IEP for the student with the parent's consent.

The new school may provide interim services with the parents' consent while obtaining and reviewing information necessary to develop a new IEP for the student. However, if the parent and the new school cannot agree on interim services or a new IEP, the parent or the school may ask for mediation or a due process hearing to resolve the disagreement. In the meantime, the new school must consult with the parents to provide the student with a free, appropriate public education, which includes providing services comparable to those described in the student's previous IEP.

The new school must take reasonable steps to obtain the students' records from the previous school. However, if the new school is unable to obtain the student's IEP from the last school or the parent, the new school is not required to provide special education and related services for the student but must place the student in a general education program.

The new school may evaluate the student if it determines that it is necessary. If the new school decides that it is necessary to evaluate the student, the new school must:

- Give notice of its decision and the evaluation process to the parent.
- Evaluate with the parents' consent.
- Determine if the student continues to be eligible for special education and related services; and
- Develop an IEP. During the evaluation period, the student will receive those services included in the student's most recent IEP.

Does the IEP meeting have to be in person? No. When holding an IEP meeting, parents and the school may agree to use other means of participation. For example, some members may participate by video conference or conference calls.

V. The IEP Sections

The IEP has several interrelated sections. This section will break down each of those.

A. Present levels of academic achievement and functional performance

This statement, written in objective measurable terms, when possible, describes:

- Information and concerns from the parents about their student's strengths and challenges.
- How the school-age student's disability affects his or her involvement and progress in the general curriculum.
- How disability affects the preschool student's participation in appropriate activities; and
- Educational needs result from disability.

This section answers the question, "Where is the student today?"

B. Measurable annual goals

The IEP must state measurable annual goals, including academic and functional goals for the student, meaning what the team believes he or she reasonably can accomplish in a year, given the student's unique circumstances. The goals must relate to meeting the needs that result from the student's disability. They must also help the student become involved and progress in the general curriculum. This statement of annual goals may include, if determined appropriate by the student's IEP Team, individual steps (sometimes called short-term objectives) or major milestones (sometimes called benchmarks). However, if the student's IEP provides that the student will participate in alternative assessments that reflect alternative achievement standards, the IEP must include benchmarks or short-term objectives.

Additionally, the IEP Team must document its consideration regarding the inclusion of benchmarks or short-term objectives in the students' IEP.

This section answers the question, "What do we think the student can accomplish in a year?"

C. Measuring progress

The IEP must state:

- How the student's progress toward the annual goals will be measured; and
- When a parent receives periodic reports on the student's progress toward meeting his or her annual goals.

The student's progress reports are sent to the parent using quarterly or other periodic reports at least as often as parents receive progress reports for students without disabilities.

This section answers the question "How will we know if the student has met the goals?"

D. Dates and location

The IEP must state:

- What month, day, and year the services and modifications will start.
- How often will the services be provided.
- Where will the services be provided, and
- How long will they last

E. Nonparticipation with students without disabilities

The IEP must include an explanation of the extent to which the student participates in general education classes and activities.

F. Placement

The placement decision determines where the student's special education instruction will occur. This decision is made by the IEP Team, which includes the parent, and is based on the student's IEP each year.

When making its placement decision, the IEP Team must consider the least restrictive environment (LRE) for the student. Students with disabilities are educated with students without disabilities to the maximum extent appropriate. This is considered the least restrictive environment. A student must not be placed in special classes or separate schools unless education in general education classes with supports and services cannot be achieved satisfactorily.

Similarly, the student must be able to participate with students without disabilities, to the maximum extent appropriate, in nonacademic activities such as meals and recess, or other extracurricular activities. If the IEP Team determines that the student needs aids and services to help him or her participate in these activities, the school must make those available.

When selecting the least restrictive environment, consideration is given to any potential harmful effects on the student or the quality of the services they need. The student may not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum. Each school division must provide a

wide variety, or continuum, of alternative placements so that each student with a disability will have an appropriate program. This continuum includes:

- General education classes.
- Special education classes.
- Special education schools.
- Home-based instruction, if required by the IEP; and
- Instruction in hospitals and institutions, including state facilities.

NOTE: Homebound instruction is not a special education placement and is available to all students, regardless of whether they have disabilities.

Homebound instructions are:

1. Made available to students who are confined for periods that would prevent normal school attendance; and
2. Based on certification of need by a licensed physician or clinical psychologist.

This continuum of alternative placements also:

1. Must provide supplementary services, such as a resource room or services or itinerant instruction, provided with general education classes.
2. Must include integrated service delivery, which occurs when some or all goals of the students' IEP are met in general education classes with students of a similar age.
3. Must be based on the individual needs of the student, not a single model used for a specific population or category of students with disabilities.
4. Must be documented by the identification of each alternative considered and the reasons for the placement chosen; and
5. Must provide a program, if appropriate, with similar-age students.

An IEP Team may determine whether a student will attend a private school or facility that is licensed or has a certificate to operate from the LDOE, for educational reasons. If such a placement occurs, the placing school division must provide special education and related services as described in the student's IEP, including participation in state and division-wide assessments, at no cost to the parent. The student has the same rights and protections in this placement as they would have in a public school.

- G. **Special Education and Related Services** - This statement also includes changes to the program or supports for school personnel that will be provided for the student to:

- Advance appropriately toward attaining the annual goals.
- Be involved and progress in the general curriculum.
- Participate with other students with disabilities and students without disabilities in the general curriculum as well as non-academic and extracurricular activities.

H. Transition Services

Beginning when the student is age 14 (or younger, if appropriate), the IEP team will help the student plan ahead to life after high school and include statements in the IEP with respect to:

- Postsecondary annual goals for the student.
- The transition services (including courses of study) needed to help the student reach those goals; and
- The rights (if any) that will transfer from the parent to the student when he or she reaches the age of majority, and that the student and parent have been notified of these.

IDEA defines transition services as a coordinated set of activities for a student with a disability, designed within a results-oriented process focused on improving the student's academic and functional achievement and promoting the student's movement from school to post-school activities. These activities include postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. With respect to the student, this coordinated set of activities:

- Is based on the student's individual needs, considering his or her strengths, preferences, and interests; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, the acquisition of daily living skills and functional vocational evaluation.

Transition services can be provided as special education if they are specially designed instruction or as a related service, if they are required for the student to benefit from special education.

I. Other special factors to be considered:

- Supports and strategies for behavior management
- Language needs if your student has limited proficiency in English
- Braille needs if your student is blind or visually disabled
- Communication needs
- Health needs during the school day
- Assistive technology devices or services

- Extended school year services (ESYS)

J. Supplementary aids and services

These services can also play a pivotal role in supporting the education of students with disabilities in the general education classroom and their participation in a range of other school activities. That is also the intent of supplementary aids and services. Not surprisingly, these supports may be an important topic to discuss in the IEP meeting. Examples include, but are not limited to:

- Support to address the student's environmental needs (e.g., preferential seating; altered physical room arrangement);
- Levels of staff support needed (e.g., type of personnel support needed, such as a behavior specialist, health care assistant, or instructional support assistant);
- Specialized equipment needs that the student may have (e.g., wheelchair, computer, augmentative communication device);
- Pacing of instruction needed (e.g., breaks, more time, home set of materials);
- Presentation of subject matter needed (e.g., taped lectures, sign language, primary language); and
- Assignment modification needed (e.g., shorter assignments, taped lessons, instructions broken down into steps).

Deciding which supplementary aids and services (if any) will support the student's access to the general education curriculum and participation in school activities will very much depend upon the student's disability and his or her needs. None may be needed. Or many. All are intended to enable students to be educated alongside students without disabilities to the maximum extent appropriate.

K. Related Services

Related services include:

- speech/language pathology and audiological services,
- school psychological services,
- physical and occupational therapy,
- recreation, including therapeutic recreation, early identification and assessment of disabilities in students,
- counseling services, including rehabilitation counseling,
- assistive technology devices and services,
- orientation and mobility services, and
- medical services for diagnostic or evaluation purposes.

The term also includes school health services, social work services in schools, and parental counseling and training.

A LEA, as part of its requirement to provide FAPE, shall provide any related service for which there is a documented need. When the need for such services is indicated by the referral concerns during the evaluation process, the evaluation coordinator shall ensure that it is appropriate.

L. Assessments

All special education students are required to participate in statewide assessments in grades 3-11.

Students are required to take the test corresponding to the grade in which they are enrolled.

The decision as to which test a student with disabilities participates in is made on an annual basis by the IEP team.

The IEP must include:

- Any accommodations or modifications needed for the statewide assessments.
 - The assessment in which the student is to participate and any accommodations the student is to receive for instruction, and assessment shall be documented annually on the program/services page of the student's IEP.
 - Test accommodation cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.
 - Test accommodations are described in Bulletin 118, Statewide Assessment Standards and Practices.

The Louisiana Educational Assessment Program (LEAP) 2025 is a statewide assessment program for students in grades 3 through high school to measure student knowledge and skills in key courses such as ELA, Mathematics, Science, and Social Studies.

A student's results on the LEAP 2025 are evaluated along with a student's report cards and benchmark assessments to measure academic performance and ensure the student is ready to move on to the next level of study. The aggregate results are also used in determining a school's performance score.

All special education students are required to participate in statewide assessments in grades 3-11. Students are required to take the test corresponding to the grade in which they are enrolled. The decision as to which test a student with disabilities participates in is made on an annual basis by the IEP team.

To find out the learning expectations for your student's grade level in each subject, look at Louisiana's Student Standards, which describe the knowledge and skills your student is expected to gain every year.

You can also see sample ELA, math, science, and social studies questions in the Assessment Guides. [PRACTICE TESTS](#) The Department has released the following LEAP 2025 practice tests for ELA, math, science, and social studies: ONLINE VERSIONS for grades 3 through 8 and high school, PAPER-BASED PRACTICE TESTS for grade 3. View the [Parent Guide to the LEAP 2025 Practice Tests](#) for more information on how to access the practice tests and use them to support your student's learning at home.

Students with significant cognitive disabilities may be eligible to take LEAP Connect.

LEAP alternate assessment (alternate assessment) was developed for students with disabilities who are served under IDEA, for whom there is evidence that the student has a significant cognitive disability. The alternate assessment is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Connectors standards.

M. Alternate Assessment Participation Criteria

LEAP alternate assessment (alternate assessment), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. The alternate assessment is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Connectors standards.

- A. Grade 3-11 Alternate Assessment** includes LEAP Connect and ELPT Connect. To be eligible to participate in the alternate assessment, the IEP team must verify the student in grades 3-11 meets the criteria listed in this subsection.

1. For students entering a high school cohort on or before the 2019-2020 school year, the student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways.

- a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.
- b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.
- c. Students who have completed the fifth-grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or

adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence and an alternate assessment identification is appropriate for the student.

2. For students entering a high school cohort during 2020-2021 through the 2024-2025 school year, the student has a disability that significantly impacts cognitive function. This may be demonstrated in the following ways:
 - a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning.
 - b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning.
 - c. Students who have completed the fifth-grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and with deficits in adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.
3. For students entering a high school cohort during the 2025-2026 school year and beyond, the student has a disability that significantly impacts cognitive function. This may be demonstrated in the following ways:
 - a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning.
 - b. For students who have completed fifth grade, an eligible student is functioning 2.5 or more standard deviations below the mean in cognitive functioning.
4. The decision to include the student in an alternate assessment is not solely based on the following:
 - a. student's educational placement;
 - b. excessive or extended absences;
 - c. disruptive behavior;
 - d. English language proficiency;
 - e. student's reading or academic level;

- f. student's disability according to Bulletin 1508, unless the disability excludes the student from having a significant cognitive disability including emotional disturbance, significant learning disability (SLD), or speech/language impairment;
 - g. social, cultural, and/or economic differences;
 - h. anticipated impact on school performance scores;
 - i. administrative decision;
 - j. expectation that the student will not perform well on the LEAP 2025 or other statewide assessments; or
 - k. the student's previous need for accommodation(s) to participate in general state or district-wide assessments.
5. The student requires direct individualized instruction and substantial supports to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled.

C. K-2 Alternate Assessment Eligibility

Participation in the K-2 Alternate Assessment, including ELPT Connect, requires that students participate in annual screeners. The IEP team must annually determine eligibility, using qualitative and quantitative data, where available. The K-2 Alternate Assessment Participation Decision-Making Tool will identify student eligibility to participate in an alternate assessment if:

- 1. the student has a significant cognitive disability or multiple disabilities that significantly impact cognitive and adaptive functioning:
 - a. if the current evaluation of the student has a full-scale cognitive score, the existing cognitive score indicates cognitive functioning three or more standard deviations below the mean;
 - b. the K-2 Alternate Assessment Participation Decision-Making Tool column four indicates adaptive skill deficits in all three domains of conceptual, social, and practical that are characteristic of a most significant cognitive disability:
 - i. conceptual domain. Students significantly modified curriculum and instructions, is unable to clearly express wants and needs, experiences significant delays in receptive skills, and needs maximum assistance to communicate;

- ii. social domain. Students often use behaviors to communicate, may be nonverbal, may have limited communication skills in terms of vocabulary, and may use symbolic communication;
 - iii. practical domain. Students require significant support and direct instruction across all activities of daily living and personal and health needs and is likely dependent upon others for these needs;
2. the student IEP goals and instruction are linked to Louisiana state content standards supported by the Connector Standards;
 3. the student requires extensive, repeated, direct, individualized instruction and substantial support to achieve measurable gains in the grade level and age-appropriate curriculum:
 - a. support is not temporary or transient in nature;
 - b. substantially adapted materials and individualized methods of accessing information in alternative ways are required;
 4. LAC 28:XCVII.505.A.4 shall also apply to alternate assessment eligibility decisions for K-2 students.

VI. Alternative Promotion and Graduation Pathways (April Dunn Act)

The April Dunn Act is a law named after April Dunn, a local self-advocate from Baton Rouge. Ms. Dunn was champion for students with disabilities. The law allows students with disabilities who are eligible for the April Dunn Act to be promoted from elementary and middle schools to earn a high school diploma by meeting graduation requirements through individual performance criteria created by their IEP team.

A. Promotion Eligibility

The April Dunn Act allows IEP teams to determine promotion for certain students with disabilities. Under this law, IEP teams may choose alternate standards required for promotion for students who meet specific eligibility requirements.

IEP teams will determine promotion for students with disabilities, if in the year prior to the year in which the decision is made, the student meets one of the following criteria:

- The student did not meet the local requirements for promotion; or

- The student did not score at or above the basic achievement level on the English language arts or mathematics components of the required state assessment and at or above the approaching basic achievement level on the other.

A. Graduation Eligibility

The April Dunn Act also allows IEP teams of certain students with disabilities the option of determining alternate means of demonstrating proficiency for graduation requirements. Act 833 allows IEP teams to determine an alternate method for demonstrating proficiency on the state standards instead of passing the EOCs.

Louisiana currently has two choices or pathways a student can take to earn a diploma:

- The University Pathway
- The Jump Start Pathway

The University Pathway is a traditional high school pathway that prepares your student to go to a 4-year college.

The Jump Start Pathway is a career pathway that prepares your student to enter the workforce and/or continue their education at a 2-year community college.

All students must take all LEAP 2025 tests corresponding to the courses in which they are enrolled and progress to mastery.

B. The University Pathway

requires a student to do the following to earn a diploma:

- earn a minimum of 24 Carnegie credits
- score Approaching Basic or above on state assessments called the LEAP 2025, which are taken after specific courses

After successful completion, your student will leave with a diploma, ready to attend a 4-year college.

C. The Jump Start Pathway

requires a student to do the following to earn a diploma:

- earn a minimum of 23 Carnegie units
- score Approaching Basic or above on the state assessments called LEAP 2025, taken after specific courses
- earn a credential or an Industry-Based Certification (IBC)

After successful completion, your student leaves with a diploma and an Industry-Based Certification and is ready to enter the workforce or continue their education.

Students with disabilities that persistently impact their ability to progress with the general education curriculum could be eligible for an alternative pathway to graduation through the April Dunn Act. Students with disabilities become eligible when they meet one of the following criteria:

- receive scores below the combination of Basic and Approaching Basic on state assessments in two out of the three most recent years: 6th, 7th, or 8th
- receive a score of Unsatisfactory or Needs Improvement on two administrations of the same End of Course (EOC)/LEAP 2025 test.

Though these students demonstrate persistent academic difficulties, they must:

- continue to take tests for all test-eligible courses in which they are enrolled,
- continue to be taught and assessed based on the regular academic standards, and
- be enrolled in Carnegie Unit-bearing courses, just as their non-disabled peers

Individual performance criteria developed by IEP teams may be incorporated when awarding Carnegie credits, provided the student has full access to, shows involvement in, and makes progress in achieving the state content standards.

VII. April Dunn Act in the IEP

A. Promotion:

IEP teams shall determine promotion to the next grade level for a student with a disability who fails to meet the state or local established performance standards on any assessment for promotion.

Such determination shall be made only if, in the school year immediately before each grade level in which the student would otherwise be required to demonstrate certain proficiency levels in order to advance to the next grade level, the student has not otherwise met the local requirements for promotion or has not scored at or above the basic achievement level on the English language arts or mathematics components of the required state assessment and at or above the approaching basic achievement level on the other.

The IEP team, within the **first 30** days of school, **must**:

1. Identify rigorous educational goals for the student.
2. include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies.
3. Include an intensive instructional program.

4. provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, or other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability; and
5. Identify a course of study that promotes college or workforce readiness, or both, career placement and advancement, and transition from high school to postsecondary education or work placement.

B. Graduation:

If an IEP team determines that state-established benchmarks on the required state assessments are no longer a condition for graduation for a student, within the **first 30** days of school **must**:

1. Establish minimum performance requirements in the student's IEP relevant to graduation requirements.
2. Provide the student and his parents or legal guardian with information related to how requirements that vary from standard expectations may impact future educational and career options.
3. Require the student to complete IEP goals and requirements and to ensure that the student meets at least one of the following conditions, consistent with the IEP.
4. Employment in integrated, inclusive work environments, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain employment without direct and continuous educational support from the school district.
5. Demonstrated mastery of specific employability skills and self-help skills that indicate that he does not require direct and continuous educational support from the school district; or
6. Access to services that are not within the legal responsibility of public education, employment or education options for which the academic program has prepared the student.

[Frequently Asked Questions for Parents about Act 833 \(HB 1015\) of 2014](#)

VIII. Extended School Year Services

Extended school year (ESY) services are the provision of special education and related services to students with disabilities beyond the normal school year of the LEA. The LEA must utilize specific eligibility criteria to determine the need for extended school

year services, ensuring the provision of FAPE. Services are provided in accordance with an IEP and at no cost to the parents of the student.

Once a student's extended school year services have been planned through the IEP process, the services shall be implemented. LEAs should provide extended school year instruction in a location that is the least restrictive environment option for that student. The services necessary to meet the goals and objectives targeted in the ESY section of the IEP must be provided.

ESY Eligibility Criteria

ESY eligibility criteria shall be used in the determination of eligibility for ESY services. The determination of eligibility shall be made prior to the start of summer ESY services.

Three criteria are used to determine a student's need for ESY services: Regression-Recoupment, Critical Point of Instruction, and Special Circumstances.

- **Regression-Recoupment (R-R)**
 - This criterion shall be applied to all students with significant cognitive disabilities or who function like students with significant cognitive disabilities at all ages and grade levels, including preschool-aged students.
 - This criterion should be considered for all students suspected of having difficulty with the recoupment of skills. When the IEP Team decides to monitor a student using the Regression-Recoupment criterion who is not participating in LAA 1, the team shall target specific critical goals and/or objectives/benchmarks outlined in the IEP as a basis for determining eligibility at the next IEP.
 - Steps for applying the R-R Criterion: The teacher/instructional personnel reviews student performance data before and after a minimum of two breaks in instruction. The method and frequency of data collection will depend on the objectives/benchmarks. Following extended breaks in instruction (i.e., full summer), it is expected that the student will recoup the skills within 4 weeks.
 - The student is eligible for ESY services when the performance data demonstrates a pattern of problems with recouping performance on any objective/skill across any two breaks within the current IEP.
- **Critical Point of Instruction (CPI) Criterion**
 - Critical Point of Instruction-1 (CPI-1) —In the absence of extended school year services, the student would be at risk of losing general education class time or increasing special education service time because of a lack of academic or social skill development.

- Critical Point of Instruction-2 (CPI-2) —in the absence of extended school year services, the student would be at risk of losing significant progress made toward acquisition, fluency, maintenance, and/or generalization of skills relevant in the pursuit of critical life areas (i.e., self-help, community access, or social/behavioral skill areas). Behaviors to be considered for CPI-2 include self-injurious, ritualistic, and/or aggressive behaviors that negatively impact the health, well-being, and/or delivery of instruction to the student
- Steps for Applying the CPI Criteria

The teacher/instructional personnel examines student performance data and determines whether in the absence of extended school year services, the student would be at risk of losing general education class time or increasing special education service time because of a lack of academic or social skill development (CPI-1) or would be in danger of losing significant progress made toward acquisition, fluency, maintenance, and/or generalization of skills relevant in the pursuit of critical life areas (i.e., self-help, community access, or social/behavioral skill areas)

 - CPI-1: The teacher/instructional personnel determines that the student is projected to be at a critical stage in the general education curriculum, and special education services provided during an extension of the regular school year will allow the student to maintain the level of services indicated in the regular year IEP.
 - CPI-2: The teacher/instructional personnel determine that the student will require extended school year services to achieve meaningful benefit in the goal area.
- Special Circumstances
 - This includes support for older students to maintain paid employment, transitioning from Early Steps to preschool, and addressing action steps in a transition plan.
 - Excessive Absences – Any student with a disability who has documented excused absences during the school year in excess of 25 days for health-related conditions without the provision of hospital/homebound services.
 - Extenuating Circumstances – Any student who does not meet any of the eligibility criteria who may experience unusual circumstances or situations when ESY services may be needed.

A. ESY Eligibility Determination

The ESY eligibility decision for each student is to be made between January 1 and the onset of ESY services for the current school year unless there is sufficient data to make that decision prior to January.

After examining the student's performance data one of the following decisions shall be made:

- The student is eligible for services.
- The student is eligible for services, and the parent declines.
- The student is ineligible for services.
- ESY determination of eligibility will be made later during the same school year.

B. ESY and the IEP

1. The IEP Team determines the services the student will need to receive during the extended school year and which personnel will be needed to provide the services.
2. Not all students need the same program length. Extended school year services are an individual, student-based decision.
3. There is no minimum or maximum number of goals and objectives to be identified for ESY instruction. The number of objectives identified for ESY instruction is based on individual student needs.
4. The IEP Team discusses the location where the ESY service should take place to implement each ESY goal and/or the objectives/benchmarks.
5. The IEP Team should discuss conflicts that could interfere with the student's attendance during the ESY.
6. The student's progress toward achieving the measurable goal(s) during ESY services shall be recorded on the ESY form. A copy of the form with student progress indicated shall be sent to the parents within ten business days after the completion of ESY services.

IX. IEP Meeting Tips

IEP meetings might seem overwhelming. There are often many people from your student's school there, the time goes by quickly, and you may feel rushed. Here are some ideas that may help to increase your participation and improve the IEP process.

- Communicate via email regularly with school staff. We recommend that if you have verbal communication about an issue/concern that you follow up that conversation with an email to confirm what you heard and understood. It is important that you have a record of conversations.

- Prepare your thoughts before the meeting. Know what you want for your student and what questions you have. What would you like to see when it comes to your student's education? What goals do you have for them? A short-term goal could be anything from mastering a certain math concept to being able to pack and unpack their book bag independently. Long-term goals could include where you would like to see your student after high school. Nothing is too big or too small for discussion. This is your chance to address your concerns.
- Take someone with you to serve as your support system. You have the right to bring a special education advocate to help figure out what your student needs if something is not working or if you feel your voice is not being heard.
- Ask questions if you don't understand something or if you need more information.
- Participate in the academic goal setting process and request regular updates on your student's progress towards these goals.
- Speak up. No one knows your student quite like you. You understand their needs, wants, and desires. You are also keenly aware of their strengths and challenges. Prepare a list of what they need to succeed ahead of their IEP meeting, offering samples of their work and any recent evaluations they may have had done outside of the school.
- Listen. Actively listen to each other's perspectives to discover common ground. Most people at the IEP meetings will be well-meaning. It is so easy to get caught up in an "us vs. them" mindset, especially if you have had bad experiences at IEP meetings in the past. Try to go in with an open mind. This will help you, too. I promise.
- Stand your ground. You will never regret advocating too hard for your student, but you will regret agreeing to something that you're not comfortable with. Trust your gut as a parent. Remember, IEPs can be amended at any point. If something is not working for your student, the team can meet again at your request to discuss changes.

X. Discipline and Students with Disabilities

The school is required to inform parents and students of the local student conduct requirements. These are requirements for all students with or without a disability.

School personnel may remove a student with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to students without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for

separate incidents of misconduct (as long as those removals do not constitute a change of placement).

If a student with a disability has been removed from his or her current placement for a total of 10 cumulative school days in the same school year, then the LEA shall provide services to the extent required during any subsequent days of removal.

In some cases, when a student with a disability breaks a rule, the school must follow additional procedures before disciplining the student.

These are explained below:

- If a student's behavior limits his or her ability to learn, or the ability of other students to learn,
- The student's IEP Team will consider using positive behavioral interventions, strategies, and support to address the behavior:

The IEP Team will also consider:

- Developing goals and services specific to the student's behavior; or
- Conducting a behavioral assessment to determine if a Behavioral Intervention Plan (BIP) is needed.

A student with a disability may be removed (suspended) for ten cumulative school days or fewer in a school year without the school having to conduct a manifestation determination review (MDR) or provide services. These are considered short-term removals.

Because isolated, short-term suspensions for unrelated instances of misconduct may not be considered a pattern, these suspensions would not amount to a change in placement. After this ten-school-day period, a student with a disability may be suspended for up to ten school days for separate incidents of misconduct if there is no pattern.

In deciding if there is a pattern, the school must consider:

- The nearness of the suspensions to one another.
- The length of each suspension.
- The total number of days of the suspensions; and
- Whether the student's behavior is substantially like behaviors that caused your student to be suspended previously.

Any expulsion or any suspension for longer than ten consecutive school days is considered a change in placement. The IEP Team will determine the extent to which services are necessary to progress appropriately in the general curriculum and accomplish the goals in the IEP.

Before the school removes a student with a disability that constitutes a change in placement, the relevant members of the IEP Team must meet immediately, but no later than ten school days after the date of the decision to take action. In this meeting, called a manifestation determination review, the team determines whether your student's disability directly contributed to the misconduct.

NOTE: The purpose of the MDR meeting is not to determine whether the student violated the rules, but to determine if the student's behavior is a manifestation of their disability. To decide whether the behavior was a manifestation of the disability, the IEP Team and other qualified people must:

Consider all relevant information in the student's file,

- IEP.
- Teacher observations; and
- Relevant information supplied by the parent.

Determine if the behavior subject to disciplinary action was caused by or had a direct or substantial relationship to the student's disability and determine if the student's behavior was the direct result of the school's failure to implement the student's IEP.

If the student's IEP Team decides that:

- The school did not implement the student's IEP; the school must correct its error immediately.
- The student's disability did not cause the behavior; the student will be disciplined with the same disciplinary procedures applied to a student without a disability in the same manner and for the same duration.
- If the student's disability caused the behavior, then the student may not be removed from the current educational placement except through the IEP process.

The IEP Team is also responsible for conducting a functional behavioral assessment, if the student does not already have one, and developing and implementing a behavioral intervention plan. If the student has a behavioral intervention plan, the IEP Team will review and, if appropriate, change the behavioral plan.

The exception to this process is if the student has been placed in an Interim Alternative Educational Setting (IAES). Then, school personnel may keep the student in the IAES until the 45-day placement is completed.

Act 745 of the 2024 Regular Legislative Session and Bulletin 135 - School Health and Safety.

This legislation mandates that school governing authorities ensure students' access to medically necessary behavioral health services are authorized and paid for by the parent or legal guardian or an independent third-party payor. The legislation also requires public local authorities to establish clear policies regarding the provision of these services.

"Behavioral health services" shall include but not be limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services. This includes behavioral health evaluations, assessments, and the development/execution of treatment plans as deemed medically necessary.

- ABA is the process of systematically applying interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree, and to demonstrate that the interventions employed are responsible for the improvement in behavior.
- Applied behavior analysis services shall include the design, implementation, and evaluation of systematic instructional and environmental modifications by an applied behavior analysis provider to produce socially significant improvements in behavior as described in the Behavior Analyst Practice Act.

KEY PROVISIONS

Access to Services:

- Public school governing authorities cannot deny access to medically necessary behavioral health service providers during school hours if requested by a student's parent or legal guardian.

- Public school governing authorities shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student. However, the provisions of the law do not prevent school governing authorities from having additional ABA contracts or services for students.

- The provider must present a behavioral health evaluation performed by an evaluator as well as an assessment and authorized treatment plan performed by a behavioral health provider chosen by the parent or legal guardian. The evaluation must indicate that the services are necessary during school hours to assist the student with behavioral health impairments associated with a medical diagnosis that the evaluator determines is interfering with the student's ability to thrive in the educational setting.

The purpose of this initiative is to ensure that all students have timely access to medically essential behavioral health services during school hours, fostering a supportive environment that promotes their academic achievement and well-being.

It aims to establish clear guidelines for the integration and involvement of qualified behavioral health service providers within schools, ensuring effective collaboration and delivery of services that address students' behavioral health needs.

- Collaboration between school administrators and service providers is required.
- Services may occur during any part of the school day, including instructional time and inside and outside the classroom.
 - School operations and testing schedules must be considered. Student participation in behavioral services should be scheduled to avoid conflicts with school operations and testing. Specifically, students engaged in required testing should not be removed from the testing environment to receive behavioral services.

MONITORING and EVALUATION

- **Progress Reporting**
 - Policies must include provisions for the behavioral health provider to regularly report on students' progress and student and school safety concerns as related to the student's educational program to the school and parents and guardians.
 - Local policies determine frequency and content, but reports could be issued weekly or bi-weekly.
 - Progress reports could include information on some or all of the following:
 - Academic Progress: Include updates on how the student's behavioral health supports is impacting their academic performance.
 - Behavioral Goals: Track and report on the student's progress toward specific behavioral goals outlined in the service plan.
 - Behavioral Interventions: Detail which behavioral interventions were used, their success, and any adjustments made.

DISPUTE RESOLUTION

The Louisiana Department of Education maintains a Behavioral Health Service Complaint Procedure outlined in Chapter 7 of Bulletin 135 - School Health and Safety, through which the Department is authorized to investigate allegations of noncompliance brought **ONLY** by parents with the requirements of Louisiana law concerning the provision of applied behavior analysis by private providers in public schools.

XI. Restraint & Seclusion

Every effort should be made to prevent the need for using seclusion or restraint techniques. Environments should be structured and focused on positive interventions and supports to greatly reduce, and in many cases eliminate, the need to use restraint or seclusion.

All local education agencies (LEAs) must have written guidelines and procedures for responding to the behavior of students with disabilities that may require immediate intervention, including seclusion and restraint. These written guidelines and procedures must be provided to every parent of a student with a disability in the LEA and to all school employees, posted at each school and on the LEA's website, and a copy must be provided to the Louisiana State Department of Education (LDOE).

A. Physical restraint

Must be used only:

- when a student's behavior presents a threat of imminent risk of harm to self or others and only as a last resort to protect the safety of self and others;
 - to the degree necessary to stop dangerous behavior;
 - in a manner that causes no physical injury to the student, results in the least possible discomfort, and does not interfere in any way with a student's breathing or ability to communicate with others;
 - by trained personnel, except in emergency situations in which there is not sufficient time to have trained personnel respond.
1. No student shall be subjected to any form of mechanical restraint.
 2. No student shall be physically restrained in a manner that places excessive pressure on the student's chest or back or that causes asphyxia.
 3. A student shall be physically restrained only in a manner that is directly proportionate to the circumstances and to the student's size, age, and severity of behavior.

B. Use of Seclusion or Seclusion Rooms

Must be used only:

- for student behaviors that involve an imminent risk of harm to self or others;
- as a last resort when de-escalation and other positive behavioral interventions and support attempts have failed and the student continues to pose an imminent risk of harm to self or others.

Seclusion shall not be used as routine school safety, discipline, or intervention measure or to address behaviors such as general noncompliance, self-stimulation, academic refusal, and other behaviors that, while disruptive to a classroom setting or other daily school activities, do not present an imminent risk of harm to self or others. School employees shall respond to such behaviors with less stringent and less restrictive

techniques, such as those included in a school or student crisis intervention plan or a student's IEP or BIP.

1. A seclusion room shall be used only as a last resort and when less restrictive crisis intervention measures, such as positive behavioral supports, constructive and non-physical de-escalation, and restructuring of a student's environment, have failed to stop a student's actions that pose an imminent risk of harm to self or others.
2. A student shall be placed in a seclusion room only by a school employee who uses accepted methods of escorting a student to a seclusion room, placing a student in a seclusion room, and supervising a student while the student is in the seclusion room.
3. Only one student may be placed in a seclusion room at any given time, and the school employee supervising the student must be able to see and hear the student the entire time the student is placed in the seclusion room.

A seclusion room **MUST**;

1. be free of any object that poses a danger to the student placed in the room.
2. have an observation window and be of a size that is appropriate for the student's size, behavior, and chronological and developmental age.
3. have heating, cooling, ventilation, and lighting systems and a ceiling height comparable to operating classrooms in the school.

C. Restrictions on the Use of Seclusion or Physical Restraint

1. Seclusion and physical restraint shall not be used as a form of discipline or punishment, as a threat to control, bully, or obtain behavioral compliance, or for the convenience of school personnel.
2. No school employee shall subject a student to unreasonable, unsafe, or unwarranted use of seclusion or physical restraint.
3. No school employee shall seclude or physically restrain a student who is known to have any medical or psychological condition that precludes such action, as certified by a licensed pediatrician, neurologist, or mental health provider in a written statement provided to the school in which the student is enrolled.
4. A school employee shall continuously monitor a student who is secluded or physically restrained for the duration of such seclusion or restraint.
5. A school employee shall release a student from seclusion and physical restraint as soon as the reasons for justifying such action have subsided.

6. Each principal or such designee shall notify each parent or legal guardian of a student enrolled at the school with an IEP of the prohibition of the use of seclusion and physical restraint if the student has a condition as provided in this Section. Such notification shall be made annually and be incorporated into the students' IEP.

D. Seclusion and Restraint Post-Incident Requirements

Upon a student's release from seclusion or physical restraint, the following shall occur:

1. A school employee who secluded or physically restrained the student shall notify the school principal, and the principal or designee shall electronically notify the director or supervisor of special education as soon as is practicable but no later than one hour following the release of the student, or the end of the same school day, whichever occurs first.
2. A school employee who secluded or physically restrained the student or a school administrator shall notify the student's parent or legal guardian via a phone call as soon as is practicable, but no later than the end of the same school day.
3. A school nurse or school health designee shall visit the student as soon as possible, but no later than the end of the same school day, to look for and document any signs of injury or distress.
4. A school employee shall immediately notify the school principal and the director or supervisor of special education any time a student is secluded or physically restrained.
5. A school principal or his designee and the director or supervisor of special education shall review video and audio footage, if available, to ensure policies and proper techniques were followed during the incident.

A school employee who secluded or physically restrained a student shall document and report the incident in accordance with the policies adopted by the public school governing authority. The employee shall submit such report to the school principal by the end of the next school day. The principal or designee shall submit the report to the parent by the end of the next school day following receipt of the report. At a minimum, the incident report shall include the following;

1. the name, age, grade, gender, race, and disability of the student secluded or restrained;
2. the date, time, location, and duration of the seclusion or physical restraint;

3. the name and title of each school employee involved or any witness;
4. a description of the events requiring the use of seclusion or physical restraint, including a description of the procedures and types of restraint used, any actions taken in an attempt to de-escalate the situation, and the student's behavior that suggested the student posed an imminent risk of harm to self or others.
5. a description of any student injuries, visible marks, or medical emergencies that occurred during or after the seclusion or physical restraint.
6. a description of the actions taken immediately following the student's release from seclusion or physical restraint, including actions to notify the student's parent or legal guardian; and
7. a description of the student's actions immediately following the student's release from seclusion or restraint.

If a student is involved in three incidents in a school year involving the use of seclusion or physical restraint as a result of posing an imminent risk of harm to self or others, the special education teacher shall send prior written notice of the intention to call an IEP team meeting to the student's parent or legal guardian. At such meeting, the IEP team shall review and revise the student's BIP, including any crisis intervention plans, to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates, requiring repeated use of seclusion or physical restraint, the director or supervisor of special education or designee shall review the student's plans at least once every three weeks.

E. New Training Requirements

Crisis intervention training programs used by LEAs shall include, at a minimum, the following:

1. Teach evidence-based techniques that are shown to be effective in the prevention and safe use of seclusion and physical restraint.
2. Provide evidence-based, competency-based skills training relating to positive support, conflict prevention, de-escalation, and crisis response techniques

The school principal shall designate such employees that are required to complete a training program when the local policy includes implementation procedures for seclusion and restraint. Educators are not trained to implement seclusion, and restraint may receive professional learning in effective strategies for behavior management of students with disabilities and crisis intervention procedures.

F. Policy and Reporting Requirements

Each public school governing authority shall adopt written guidelines and procedures regarding the following:

1. proper use of crisis intervention plans, including the use of positive behavioral interventions and support, sensory rooms, seclusion, and physical restraint, and how these strategies differ.
2. all seclusion and physical restraint safety, reporting, and notification requirements, including any follow-up procedures.
3. an explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint; and
4. an explanation of how school employees may utilize and be trained in a crisis intervention training program.

LEA guidelines and procedures shall be annually provided to all school employees, all parents and legal guardians of students with an exceptionality, and the LDOE by May 31, 2026, and prior to the start of each school year thereafter.

At the beginning of each school year, each public-school governing authority shall post on its website the guidelines and procedures adopted in accordance with this Subsection.

The LDOE shall maintain on its website, and annually distribute to public school governing authorities, updated guidance for recommended best practices relative to the use of seclusion and physical restraint for students with exceptionalities.

The LDOE shall provide guidance to public school systems for establishing local guidelines and procedures. LEAs shall follow the incidents of seclusion and physical restraint reporting requirements in accordance with this Subsection, including specific data elements to be included in such reporting.

XII. Cameras in Self-Contained Classrooms

Cameras **MUST** be installed in all self-contained classrooms or other special education settings in which a majority of students in regular attendance are provided with special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least fifty percent of the instructional day.

The location and placement of cameras, including a prohibition against recording of the interior of a restroom or any area designated for students to change or remove clothing. Written notice of the placement of the cameras to be provided to people who enter a

classroom where a camera is installed, including teachers and other school employees, students in the classroom, the students' parents and legal guardians, and authorized visitors.

The retention, storage, and disposal of the video and audio data recorded, including a requirement that the recordings be retained for at least one month from the recording date. Protecting student privacy and determining whom and under what circumstances the recordings may be disclosed, including. Viewing of the recordings is limited to the superintendent or their designee, and the parent or legal guardian of a recorded student, upon request.

Recordings shall be confidential and shall not be public record.

***Parents shall be notified should a camera be out of order for more than two consecutive school days*

XIII. Dispute Resolution – Due Process and Other Complaints

Sometimes you may disagree with the LEA about your student's special education. The LDOE has developed dispute resolution processes for resolving the disagreement about your student's disability identification or eligibility, evaluation, the level of services or placement, the provision of FAPE, or payment for services that you have obtained.

The LDOE offers several exceptionality dispute resolution options to help resolve disagreements concerning issues related to providing a student with a disability a free appropriate public education (FAPE), including but not limited to problems involving evaluations, eligibility, placement, related services, and implementation. The LDOE offers these dispute resolution options at no cost to parents or school districts/charter schools.

A. IEP Facilitation

IEP meeting facilitation is a non-adversarial dispute resolution method offered by the LDOE. This option is available to you and LEAs when they both agree that it would be valuable to have a neutral person – an IEP Facilitator – present at an IEP meeting to assist in discussing issues regarding your student's IEP. Typically, an IEP Facilitator is brought in when parents and local education agency staff have difficulties communicating with one another regarding the student's needs.

The IEP Facilitator assists in creating an atmosphere for fair communication and aids in the successful drafting of an IEP for the student. An IEP Facilitator does not make decisions; instead, they facilitate discussions and decision-making. Either the parent or the LEA may request IEP facilitation. However, since the process is voluntary, both sides must agree to participate in a facilitated IEP meeting. The process can be initiated by requesting the LDOE's Legal Division. The service is provided at no cost to you or

the LEA. You may choose to use the form located on the department's website to request IEP facilitation.

B. Mediation

Mediation is available to resolve a disagreement between you and the LEA regarding the identification, evaluation, placement, services, or the provision of a FAPE to your student. Mediation is a way to discuss and resolve disagreements between you and the LEA with the help of an impartial third person who has been trained in effective dispute resolution techniques.

Mediation is a voluntary process, and both you and the LEA must agree to participate for the mediation session to occur. The mediation sessions are scheduled in a timely manner and held in a location that is convenient to the parties in the dispute. A mediator does not make decisions; instead, he/she facilitates discussion and decision-making. The discussions in a mediation session are confidential and may not be used as evidence in subsequent due process hearings or civil court proceedings. If the mediation process results in full or partial agreement, the mediator and the parties will prepare a written agreement to be signed by both you and the LEA's representative.

In addition to describing the things you have agreed to, the mediation agreement will state that all discussions that occurred during the mediation are confidential and may not be used as evidence in a due process hearing or other civil court proceeding. The signed agreement is legally binding on both you and the LEA and is enforceable in court. You may request mediation before, at the same time, or after submitting a request for a due process hearing or complaint investigation. Requesting mediation will not prevent or delay a due process hearing or complaint investigation, nor will mediation impair any of your other rights under the IDEA or related state laws.

G. Requesting Mediation

To initiate the mediation process, you must request mediation to the Legal Division. You may request mediation by calling (225) 342-3572; by sending written notice by fax to (225) 342-1197; or, by mailing written notice to the LDOE, P.O. Box 94064, Baton Rouge, Louisiana 70804-9064, Attention: Legal Division. A mediation request form can also be found on the department's website: www.louisianabelieves.com.

The Legal Division will assign a mediator who will contact both you and the LEA to schedule a meeting at a convenient location. The Legal Division maintains a list of mediators who are trained, qualified, and knowledgeable about the laws and regulations relating to the provision of special education and related services. Mediators are assigned on a rotational basis. No employee of the LDOE, LEA, or any other public agency providing special education services is eligible to serve as a mediator. A mediator is not considered an employee solely because they are paid to provide this service. A mediator must not have any personal or professional conflict of interest.

The LDOE bears the cost of the mediation process. The LEA may establish procedures to offer you the opportunity to meet at a convenient time and location with someone from a parent training center or alternative dispute resolution entity to discuss the benefits of the mediation process when you have opted not to participate in mediation with the LEA. However, the procedures cannot be used to delay or deny your right to pursue other dispute resolution options if you decline to participate in such a meeting. The LDOE pays for the cost of these meetings.

D. Informal Complaints

The informal complaint process is an opportunity for attempting to resolve disputes prior to the exercise of the LDOE's supervisory jurisdiction in addressing allegations that the LEA is violating a requirement of the IDEA. The LEA must address informal complaints within 15 days of receipt of the complaint.

It is the simplest, swiftest, least adversarial, and most direct option for resolving exceptional disputes. The Informal Complaint/Early Resolution Process (ERP) is based on the traditional, community-centered model, where parents and school districts work collaboratively and cooperatively to achieve a common goal: to meet the educational needs of students with exceptionalities.

Informal complaints may be made directly to the LEA ERP representative either in person or by telephone, mail, facsimile, e-mail, or Telecommunications for the Deaf (TDD). After participating in the informal complaint process, you and the LEA may sign a resolution agreement or an agreement to extend the resolution period. If no agreement is reached and no extension is requested, the LEA's ERP representative shall provide you with the LDOE's explanation of dispute resolution options. At any time during the ERP process, you may pursue the other dispute resolution options provided by the LDOE.

E. Formal Complaints

Formal administrative complaints are procedures developed under the supervisory jurisdiction of the LDOE to address allegations that a LEA is violating a requirement of the IDEA. A parent, adult student, individual, or organization may file a signed written complaint with the LDOE by U.S. mail, facsimile, email, or TDD.

The party filing the complaint shall forward a copy of the complaint to the LEA or public agency serving the student at the same time the party files the complaint with the LDOE. Formal complaints must be written, signed, and allege a violation that occurred no more than one year prior to the date the complaint is received.

Unless the parties have already attempted informal resolution on the same issues, the LEA shall offer the complainant an opportunity to participate in local resolution efforts prior to the LDOE's investigation of the complaint allegations. Upon expiration of the ERP, the complaint is reviewed, and the LEA is notified and asked to provide specific information.

The LDOE will provide the LEA an opportunity to dispute the allegations made in the complaint or to offer a proposal to resolve the complaint. The party filing the complaint will also be given a chance to provide additional information during the investigation. Depending on the nature of the complaint, the LDOE may conduct an on-site visit to the LEA. All relevant information is reviewed, and a determination is made as to whether the LEA has violated a requirement of applicable federal or state statutes, regulations, or standards.

The LDOE has 60 days from receipt of the complaint or 45 days from the end of the ERP to issue a written decision to all parties on each allegation in the complaint. The timeline for completing the investigation and issuing a written decision may be extended due to extenuating circumstances or, with the consent of both parties, to allow additional time for the parties to participate in mediation or other local resolution efforts.

Necessary Forms

The LDOE has developed forms to assist you in filing complaints. These forms are located on the LDOE's website www.louisianabelieves.com. You may choose not to use these forms to file a complaint; however, requests for complaint investigations must include all the information required by law.

D. Special Education Ombudsman

An Ombudsman is a person who serves as a designated neutral party who advocates for a fair process and provides confidential, informal assistance and support to parents, guardians, advocates, educators, and students with disabilities. The LDOE's Parent Ombudsman for Special Education serves as a resource to parents in non-legal special education matters.

- The Ombudsman does not disclose personal information, discussions, and interactions.
- The Ombudsman does not take a side on the issues and serves as an advocate for a fair process.

The [LDOE Special Education Ombudsman PDF \(will open in new tab\)](#) serves as a resource to parents in non-legal special education matters. Contact the ombudsman at disputeresolution.doe@la.gov or 1-877-453-2721, Option 2.

The LDOE is committed to assisting parents and school districts in their efforts to resolve exceptionality-related disagreements in the least adversarial manner possible. Therefore, the LDOE strongly encourages parents, their advocates and attorneys, or other concerned individuals to first contact their local special education director or supervisor before utilizing any of the state-level exceptionality dispute resolution options. There is no formal process or documentation required to access the services of the ombudsman.

E. Due Process Hearing

A due process hearing is a formal, court-like proceeding in which evidence is presented to an independent hearing officer to resolve a dispute between you and the LEA regarding your student's disability identification, evaluation, eligibility, placement, services, or reimbursement of services you have obtained privately.

Only the parents of a student with an exceptionality, an attorney representing the parents or student, or a school district/charter school may file a Due Process Hearing Request. It is the LDOE's most adversarial exceptionality dispute resolution option. hearing is limited to issues involving the identification, evaluation, eligibility, placement, and providing FAPE to a student with an exceptionality. 504/ADA disability discrimination complaints are generally beyond the ALJ's legal jurisdiction; however, the assigned ALJ will make a legal determination. 504/ADA disputes can be addressed using the school district/charter school grievance procedures or sent to the USDOE Office for Civil Rights-Dallas Office.

All Due Process Hearing Requests must:

- be in writing.
- Include the requester's name, address, and telephone number.
- Provide the student's name and address (if different).
- State the school district or charter school the student attends or is a resident of.
- include a statement describing the reason(s) for the hearing request that explains the problem(s) and provides the facts; and,
- propose a resolution.

Although requesters are not required to use the Due Process Hearing Request Form, the LDOE strongly encourages requesters to use the form or at least refer to it while drafting a Due Process Hearing Request.

The LDOE may not officially accept and process a Due Process Hearing Request unless it contains all of the information listed above. The requester must also send a copy of the Due Process Hearing Request to the responding school district/charter school.

After the LDOE receives a completed Due Process Hearing Request, the Legal Division will acknowledge receipt and forward the request to the Division of Administrative Law (DAL). This independent state agency conducts Due Process Hearings for the LDOE. The DAL will assign an ALJ to the request and provide the assigned ALJ with a copy of the hearing request. Otherwise, the Due Process Hearing Request remains confidential.

The DAL's ALJ will coordinate and schedule a prehearing conference with the parties to discuss the hearing process, review the issues, and establish a schedule for activities related to the hearing.

F. Due Process Hearing Request Procedures

Please send Due Process Hearing Requests to LDOE by email: DisputeResolution.DOE@la.gov; by mail to Louisiana Department of Education, Attention: Legal Division, P.O. Box 94064, Baton Rouge, Louisiana 70804-9064; or by fax to (225) 342-1197.

A request for a due process hearing must be made within two years of the date you knew or should have known about the alleged action forming the basis of your dispute with the LEA. This two-year limit does not apply if you were prevented from requesting the hearing because the LEA specifically misrepresented that it had resolved the problem you complained about or if the LEA withheld pertinent information from you that it was required to provide you under the IDEA.

G. Due Process Hearing: Resolution Meeting and Timeline

If the parents file a Due Process Hearing Request, the school district/charter school is required to attempt to convene a Resolution Meeting within 15 calendar days after receiving a request from the LDOE. If the parents and the school district have not resolved the dispute within 30 calendar days after receiving the hearing request or agreeing to an extension, the ALJ can schedule the Due Process Hearing.

Within 10 days of receiving your request for a due process hearing, the LEA must do two things:

1. Send you a written notice regarding the subject matter of your request for a due process hearing, including:
 - a. An explanation of why the LEA proposed or refused to take the action that is the subject of the due process hearing.
 - b. A description of the options the IEP team considered and the reasons they were rejected.
 - c. A description of each evaluation procedure, assessment, record, or report the LEA used as the basis for its decision; and
 - d. A description of the factors the LEA believes is relevant to its proposal or refusal.
2. Send you a written response that specifically addresses the issues you raise in your request for a due process hearing.

NOTE: *The LEA is not required to send you this written notice after it received your request for a due process hearing if the LEA previously sent you prior written notice on the same matter.*

After the 30-day resolution period expires, the 45-day timeline for the ALJ to issue a final written decision begins. The parents and the school district may agree in writing to waive the Resolution Meeting or to use Mediation or an alternative dispute resolution option instead of conducting a Resolution Meeting. If the parties waive the resolution meeting or use mediation, the 45-calendar-day timeline to complete the hearing begins on the waiver date or after Mediation.

H. Due Process Hearing Procedures and Rights

The parties cannot raise issues at the hearing that were not included in the written hearing request, unless the other parties agree to allow an amendment to include those additional issues. Parties should notify the assigned ALJ of their intent to amend a Due Process Hearing Request.

Both parties have the right to:

- be represented by an attorney licensed or officially authorized to practice law in Louisiana.
- be accompanied and advised by individuals with special education, training, and knowledge of the unique problems of students with disabilities.
- Confront, cross-examine, and compel witnesses to attend the hearing.
- present, exclude, and prohibit the introduction of any evidence at the hearing that was not disclosed at least five business days before the hearing or as ordered by the assigned ALJ.
- sequester or separate the witnesses so that they do not hear other witnesses' testimony before testifying; and,
- an interpreter or other reasonable accommodation, if necessary.

The parents also have the right to:

- decide whether the student who is the subject of the hearing will attend and participate in the hearing; and
- obtain, at no cost to the parent, a written or an electronic verbatim transcript of the hearing, as well as a written or electronic copy of the ALJ's written decision that includes factual findings, conclusions of law, and orders.

Before the Due Process Hearing is held, parents are entitled to request a copy of the student's educational record, including all tests and reports that form the basis of the school district's or charter school's proposed action or refusal. In addition, at least five business days before the hearing date, the parents and the school district must disclose to each other the evaluations they intend to use in the hearing.

Specifically, the parties must exchange copies of all evaluations and any recommendations based on those evaluations by that deadline. If the parents or school district fail to make these disclosures on time, the ALJ may prevent that evidence from being used or introduced for the hearing. Both parties are required to inform the ALJ and each other if an evaluation is underway but has not been completed. Parents and school districts should also prepare and submit an Exhibit List that itemizes all relevant investigation documents/exhibits they would like the ALJ to consider. The LDOE is responsible for the costs of conducting the hearing. Both parties are responsible for the costs of their participation in the hearing (e.g., subpoena costs, witness charges, attorney's fees, copying documents, etc.).

The assigned ALJ shall determine the relevant facts, make decisions on substantive grounds, and determine whether the school district/charter school provided the student with FAPE. If the hearing request includes or is based on alleged procedural violations, the ALJ may find that the student did not receive a free, appropriate public education only after finding that the procedural violations occurred and the violations:

- impeded the student's right to a free, appropriate public education.
- significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of free, appropriate public education.
- deprived the student of educational benefits; or
- any other applicable legal determination available under IDEA laws or LDOE regulations.

As part of the written findings and decision, the ALJ may order the school district/charter school to comply with the IDEA or LDOE procedural requirements, issue corrective actions, award compensatory education and other forms of just, equitable relief permitted by law or jurisprudence.

The ALJ must conduct the hearing and mail a written decision to the parents and the school district within 45 calendar days after the end of the resolution period. If the ALJ grants a continuance request or a specific extension of time from the parents or the school district, the ALJ may also extend the 45-day timeline.

The ALJ's decision is final. The parents or the school district/charter school must implement any orders in the decision unless a party files a civil action in a State or Federal court of competent jurisdiction within 90 days after receiving the ALJ's decision. As required by the IDEA, the LDOE makes copies of written, final Due Process Hearing decisions available to the public on its website.

I. Hearing Decisions

The decision of the hearing officer is made on substantive grounds based on a determination of whether the school provided your student with a free, appropriate public education (FAPE). If your request for a hearing includes or is based on alleged procedural violations, the hearing officer may find that your student did not receive a

FAPE only if he or she finds that the procedural violations occurred and that those procedural violations:

1. Impeded your student's right to a FAPE.
2. Significantly impeded your opportunity to participate in the decision-making process regarding the provision of FAPE; or
3. Deprived your student of educational benefits. As part of his or her decision and order, the hearing officer may order the LEA to comply with the procedural requirements.

K. Written Settlement Agreement

If a resolution to the dispute is reached at the resolution meeting, you and the LEA must enter into a legally binding agreement that is:

1. Signed by you and a representative of the LEA who has the authority to bind the agency; and
2. Enforceable in any state court of competent jurisdiction (a state court that has the authority to hear this type of case) or in a district court of the United States.

If you and the LEA enter into an agreement as a result of a resolution meeting, either party may void the agreement within three (3) business days of the time that both you and the LEA signed the agreement.

L. Civil Action

If you disagree with the hearing officer's written decision, you have the right to bring civil action in state or federal court. You may be entitled to file a lawsuit under other state or federal laws. However, if you are seeking a remedy that is also available under IDEA, you must pursue your claims through a due process hearing before bringing a civil action. In any civil action, the court:

1. Receives the records of the administrative proceedings.
2. Hears additional evidence at your request or at the LEA's request; and
3. Bases its decision on the preponderance of the evidence and grants relief that the court determines it to be appropriate.

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

Nothing in IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of students with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under IDEA, the due process procedures described

above must be exhausted to the same extent as would be required if the party filed the action under IDEA.

This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws; you must first use the available administrative remedies under IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going directly into court.

M. Attorney's Fees

You may be eligible for an award of reasonable attorney fees if an attorney represents you during a due process hearing (including an appeal and subsequent civil action) and you ultimately prevail. The LEA may negotiate with you or your attorney regarding the amount of reimbursement and, if necessary, about who prevailed. The LEA may seek attorney's fees against you if you request a hearing or file a subsequent cause of action that is frivolous, unreasonable, or without foundation or if you continued to litigate after the litigation was obviously frivolous, unreasonable, or without foundation.

The LEA or the LDOE may also seek attorney's fees from you if your hearing request was presented for any improper purpose, such as to harass, to unnecessarily delay, or to needlessly increase cost of litigation. Mediation is not available to resolve a disagreement on attorney's fees. An action for attorney fees must be filed in the appropriate state or federal court within 30 calendar days of a final decision that is not appealed. Any fees awarded must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under IDEA or state law.

XIV. Confidentiality of School Records

The law protects the confidentiality of a student's school records. (FERPA)

There are three issues relating to confidentiality:

- Access to the student's records.
- Amendment (change) of the student's records; and
- The use of personally identifiable information.

The school must permit the parents to inspect and review any school records that relate to their student and that are collected, maintained, or used by the school. Further, the school must respond without unnecessary delay, but not more than 45 calendar days after the request is made. The school must promptly respond to the parent's request before any meeting regarding an IEP or any due process hearing or resolution meeting involving their student.

With respect to access of records, parents have the following rights:

- To receive a list of the types and locations of school records collected, maintained, or used by the school.
- To inspect and review records unless the school has been advised that the parent has no authority under Louisiana law governing such matters as continuing tutorships, interdictions, separation, and divorce.
- To inspect and review only information relating to their student if any record contains information on more than one student.
- To have someone the parent chooses to inspect and review the records.
- To have reasonable requests of school personnel for explanations and interpretations of the records; and
- To request that the school provide copies of the records.

Except for disclosure to law enforcement and judicial authorities under specific conditions, the school must get parental consent before personally identifiable information is:

- Disclosed to anyone other than officials of the school who collect, maintain, or use this information; and
- Used for any purpose other than meeting a requirement in the provision of a free, appropriate public education for the student.

Personally identifiable information means information that includes the following:

- The name of the student, you, or another family member.
- The address of the student.
- A personally identifying number, such as a telephone number or social security number; and
- A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

XVI. Acronyms and Abbreviations

ADA: Americans with Disabilities Act

ALJ: Administrative Law Judge

APE: Adaptive Physical Education

ASD: Autism Spectrum Disorder

AT: Assistive Technology

BIP: Behavioral Intervention Plan
CFR: Code of Federal Regulations
DAL: Division of Administrative Law
DB: Deaf blindness
DD: Developmental Delay
DSM-V: Diagnostic & Statistical Manual Fifth Edition
ED: Emotional Disability
EI: Early Intervention
EOC: End of Course Test
ESL: English as a Second Language
ESY: Extended School Year
FAPE: Free Appropriate Public Education
FBA: Functional Behavioral Assessment
FERPA: Family Educational Rights and Privacy Act
FOIA: Freedom of Information Act
HI: Hearing Impairment
HIPAA: Health Insurance Portability and Accountability Act of 1996
IBC: Industry Based Credential
ID: Intellectual Disabilities
IDEA: Individuals with Disabilities Education Act
IDEIA: Individuals with Disabilities Improvement Act of 2004 (otherwise called IDEA)
IEE: Independent Educational Evaluation
IEP: Individualized Education Program
IFSP: Individual Family Service Plan
IHO: Impartial Hearing Officer
IQ: Intelligence Quotient
LD: Learning Disabilities
LDOE: Louisiana Department of Education

LEA: Local Educational Agency (School division)

LEP: Limited English Proficiency

LRE: Least Restrictive Environment

MD: Multiple Disabilities

MDR: Manifestation Determination Review