

**UPPER VALLEY SPECIAL EDUCATION UNIT
POLICIES AND PROCEDURES HANDBOOK**

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SECTION 1: RIGHTS TO EDUCATION

I. RIGHT TO EDUCATION POLICY STATEMENT (20 U.S.C. 1412(a)(1); 34 CFR § 300.101-300.102)

A. Policy

The Upper Valley Special Education Unit assures that all children with disabilities ages 3 through 21 have the right to a free appropriate public education (FAPE) including children with disabilities who have been suspended or expelled from school. This policy includes all children with disabilities in accordance with definitions as listed in IDEA 2004 (Public Law 108-446) and North Dakota Century Code (NDCC). FAPE means that an eligible student with a disability receives special education and related services at public expense, and that services are provided in conformity with an individualized education program (IEP). Special education includes specially designed instruction to meet the unique needs of the student which, in turn, involves adapting the content, methodology or delivery of instruction in order for the student to be involved in and make progress in the general curriculum, and to participate in extracurricular and other non-academic activities. Related services means transportation and developmental, corrective, and other supportive services that are necessary for a student with a disability to benefit from special education or to access the general curriculum.

In providing a free appropriate public education to a child with a disability, the Upper Valley Special Education Unit assures that:

1. if placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child (300.104);

UVSE Policy

All UVSE area schools ensure that a placement in public or private residential program is necessary to provide special education and related services to a student with a disability, the program including non-medical care and room and board will be at no cost to the parents of the child.

2. the hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly (300.113 (a));

UVSE Policy

It is UVSE's policy not to purchase personal appliances for individuals such as glasses or hearing aids. Additionally, UVSE does not purchase hearing aid batteries. UVSE, however, will monitor the functioning of individual students'

hearing aids. If the individual has an IEP, the name of the individual monitoring the functioning of the aid should be listed adaptations of educational services section (Section G). If the individual does not have an IEP, it is suggested that the building principal appoint an individual to regularly monitor the functioning of the aid. This individual's name could be listed on the student's cumulative file annually.

3. it is taking steps to ensure that children with disabilities have available to them the variety of educational programs and services available to children who do not have disabilities, including art, music, industrial arts, consumer and homemaking education, and vocational education (300.110);

UVSE Policy

UVSE schools assure that all handicapped children have a variety of educational program options available to them including art, music, industrial arts, consumer and homemaking education, and vocational education if these options are available to the student without a disability.

4. it is taking steps including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities (300.107);

UVSE Policy

UVSE schools reaffirm their responsibility to provide nonacademic and extracurricular activities to handicapped students to the same extent it provides these opportunities to the student without a disability. This includes counseling, athletics, transportation, health services, recreation opportunities, clubs sponsored by the schools, employment programs, and other similar options available to the student without a disability.

5. it affords each child with a disability the opportunity to participate in the regular physical education program available to children who do not have disabilities, unless the child is enrolled full time in a separate facility, or the child needs specially designed physical education (300.108);

UVSE Policy

All UVSE schools will have physical education available to every child receiving a free appropriate education. This includes specifically designed programs if necessary. Each child must be afforded the opportunity to participate in the regular physical education program unless:

- (i) *The child is enrolled full time in another facility. If this is the case, the school will still provide a program. The physical education services provided may or may not be with the student without a disability.*

(ii) Needs a specially designed program as prescribed on the IEP.

If the child is being served by another program or facility, the local school district will assume the responsibility to see that the services are provided.

6. Assistive technology devices or services or both are made available to a child with a disability, if required, as part of the child's special education, related services, or supplementary aids and services (300.105); and

UVSE Policy

It is UVSE's policy to have IEP teams define, on a case by case basis, the extent to which a student with a disability requires assistive technology and/or services under 300.5 and 300.6 as defined on pages 42 and 43 in the State IEP Guidelines.

7. extended school year services are available as necessary to provide a free appropriate public education, as determined by the child's individualized education program team (300.106).

UVSE Policy

To ensure a free appropriate public education, the team must consider whether extended school year services are needed for each child regardless of the child's disability.

B. Definitions; FAPE for Children Beginning at Age 3

As defined by IDEA, 34 CFR § 300.8, a *child with a disability* means a child evaluated in accordance with §§ 300.304-300.311 as having an intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, serious emotional disturbance ("emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

North Dakota Century Code Section 15.1-32-01(4) defines the "child with disabilities" and the age limits for providing special education programs to children with disabilities. This statute provides the basis for programming for children with disabilities ages 3 through 21. Federal regulations at 34 CFR 300.8 (b) state that the term *child with a disability* for children aged 3 through 9 or any subset of that age range, may include a child:

1. who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

2. who, for that reason, needs special education and related services.

In North Dakota, the term “child with a disability” for a child ages 3 through 9 may include a child who is experiencing developmental delays. The State has adopted the term “non-categorical delay” for children of this age range. “Non-categorical delays” are defined by State guidelines in *Guidelines: Identification and Evaluation of Students with Non-Categorical Delay* (NDDPI September 1, 2004). On April 9, 2007, Governor Hoeven signed S.B. 2108, which creates a new section in NDCC ch. 15.1-32 recognizing non-categorical delay as an option. This law will take effect August 1, 2007. The Upper Valley Special Education Unit has chosen to adopt and use the term non-categorical delay for children ages 3 through 9.

The *UVSE Policy* ensures that:

1. the obligation to make FAPE available to each eligible child residing in the State begins no later than the child’s third birthday; and
2. an Individualized Education Program (IEP) or an Individualized Family Services Plan (IFSP) is in effect for the child by that date, in accordance with §300.323.
3. if a child’s third birthday occurs during the summer, the child’s IEP team shall determine the date when services under the IEP or IFSP will begin.

C. FAPE for Children Suspended or Expelled from School

1. A school district need not provide services during periods of removal under §300.530(b) to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.
2. In the case of a child with a disability who has been removed from his or her current placement for more than ten (10) school days in that school year, the school district, for the remainder of the removals, must
 - (i) provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child’s IEP, if the removal is—
 - (a) under the school personnel’s authority to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement under §300.536, 300.530(d); or
 - (b) for behavior that is not a manifestation of the child’s disability, consistent with §300.530(c); and
 - (ii) provide services consistent with §300.530(d), if the removal is—
 - (a) for drug, weapons, or serious bodily injury offenses under §300.530(g); or
 - (b) based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the

child or to others if he or she remains in the current placement, pursuant to §300.531(b).

3. School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement under §300.536 (§300.530(d)(4)).
4. The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, pursuant to §300.530(d)(5).

(See also Section IV; Discipline Procedures)

D. Children Advancing from Grade to Grade (§ 300.101I)

1. The Upper Valley Special Education Unit ensures that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.
2. The determination that a child residing in North Dakota between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, is eligible under this part, must be made on an individual basis by the group responsible within the school district for making those determinations.

E. Exception to FAPE for Certain Ages (§300.102)

NDCC §15.1-32-01(4) identifies age limits for provision of FAPE in North Dakota: an individual who is at least three years of age but who has not reached age twenty-one before September first of the year in which the individual turns twenty-one.

The obligation to make FAPE available to all children with disabilities does not apply to students with disabilities who have graduated from high school with a regular high school diploma. There is only one type of high school diploma in North Dakota, the "regular" diploma. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with §300.503.

Federal regulations at §300.102(a) (2) state other exceptions to the requirement to provide FAPE that do not apply in North Dakota because North Dakota has not enacted the required foundational state statute.

II. FULL EDUCATIONAL OPPORTUNITIES GOAL AND TIMELINE

Goal Statement (20 U.S.C. 1412(a)(2); 34 CFR 300.109)

The Upper Valley Special Education Unit affirms the goal of providing full educational opportunity to all children with disabilities ages birth through 21.

The Department of Public Instruction's present special education mandate is to serve all children with disabilities ages 3 through 21. The provision of special education services to children with disabilities ages birth through two is the responsibility of the Department of Human Services (DHS) as established in NDCC §25-16-10, and by the appointment of DHS as lead agency by the Governor of North Dakota to carry out the provisions of IDEA Part C.

III. CHILD IDENTIFICATION (20 U.S.C. 1412(a)(3)(A) and (B); 34 CFR 300.111)

A. Policy

The Upper Valley Special Education Unit assures that all children residing within its jurisdiction, including children with disabilities attending private school, regardless of the severity of their disability, and who are in need of special education and related services will be identified, located, and evaluated. This assurance extends to highly mobile children with disabilities (such as migrant and homeless children) and children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade.

B. Identification Procedure

1. The Upper Valley Special Education Unit is the central referral point for information regarding identified children with disabilities ages birth through 21. The Upper Valley Special Education Unit annually reports data on identified children with disabilities ages 3-21 to the NDDPI. These data are included in the annual report and the Child Information data collection system used for Child Count each December. The unit director works collaboratively with other community/regional agencies to develop a plan for location and identification of children ages birth through 5, to assure that selective screening is available and that children with disabilities identified as a result of the screening and subsequent evaluations are reported. The Upper Valley Special Education Unit is responsible for unit-wide planning and implementation of child identification, location, and evaluation efforts. The Upper Valley Special Education Unit utilizes the following agencies, as appropriate, to provide related, evaluative, or educational services to children with disabilities ages birth through 21, as required under IDEA:

Resource/Location	Ages Served	Nature of Services		
		Evaluation	Education	Related
College and University Clinics				
Speech and Hearing Clinic, UND, Grand Forks	0-5; 6-21	X		
Private Schools				
The Anne Carlsen Center for Children, Jamestown	0-5; 6-21	X	X	X
State Agencies				
Job Service of North Dakota	14-21	X	X	
Vocational Rehabilitation, Region IV	14-21	X		
Youth Correctional Center, Mandan, Director of Institutions, Bismarck	6-21	X	X	
ND Vision Services/School for the Blind, Grand Forks	0-5; 6-21	X	X	X
Department of Public Instruction, Bismarck	0-5; 6-21		X	X
School for the Deaf, Devils Lake, Department of Public Instruction, Bismarck	0-5; 6-21	X	X	X
North East Department of Human Services, Grafton & Grand Forks	0-5; 6-21	X	X	X
Local Programs				
Anne Carlsen Early Intervention Center	0-3	X	X	X
Area Audiologists		X		
Area Psychologists and Psychiatrists	All Ages	X		
Residential Programs				
Pride Manchester House, Bismarck	5-13	X	X	X
Ruth Meiers Adolescent Center	12-Pre 18	X	X	X
Dakota Boys and Girls Ranch, Bismarck, Fargo & Minot	10-19			
Life Skills and Transition Center, Grafton	All Ages	X	X	X
Prairie Learning Center, Raleigh ND	12-18			
Treatment Facilities				
Prairie St. Johns, Fargo	All Ages	X	X	X
Stadter Center	All Ages	X	X	X
Altru Psychiatric, Grand Forks	All Ages	X	X	X

C. Child Find Activities

1. Child Find

The Upper Valley Special Education Unit participates in ongoing efforts to identify, evaluate, and serve children with disabilities. The unit provides follow-up screening and evaluative services. Child Find information is disseminated throughout the year using brochures, parent-teacher meetings,

and professional organizations. Newspaper announcements are made yearly. Brochures are sent to all churches and professional organizations. School news letters have information on child find in them. The special education unit as the local coordinating agency begins the program planning process for children suspected of having disabilities, ages 3 through 21. Referrals of children birth through two are made through the Developmental Disabilities System.

2. **Preschool Screening**
Children with disabilities, ages 3 through 5, are referred to special education units through child find activities, parents, public health nurses, and other agencies. The Upper Valley Special Education Unit participates in interagency screening activities for at-risk children 3 through 5 years of age. Other agencies involved in the screening activities include Head Start, Migrant School, and other local programs. This selective screening process is available to young at-risk children year round and is closely coordinated with the ND Right Track System.
3. **Selective Screening**
Selective screening is done to determine the significance of identified risk conditions to the child's growth and development or academic performance. The result of the screening process is a systematic collection of information for every student screened which helps determine whether there is a need for referral to the building level support team of a school or for evaluation. Screening referrals may come from parents, school intervention teams, teachers and administrators.

Screening will be performed by qualified personnel and may include:

- i. vision screening performed to verify indicators of loss of sight, acuity, or other possible vision related problems;
- ii. hearing screening to verify any hearing risk indicators;
- iii. speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;
- iv. preschool screening which typically includes vision, hearing, cognition, motor, speech-language, and health components to verify developmental delays;
- v. academic screening for school age children to determine the significance of academic delays; and
- vi. screening for secondary level students who are at-risk of dropping out, or who have dropped out, to verify that the reasons for dropping out are not related to a previously unidentified disability.

See Appendix Section 1 – Selective Screening Instructions and Forms 1.1 – 1.2

4. **Identification of Students At-Risk of Dropping Out of School**
The Upper Valley Special Education Unit has established screening and identification procedures for secondary level students who may have dropped

out or for other reasons have not received an adequate education program. Services include evaluations, programming, and referrals to other agencies when appropriate. An outcome of this activity is to identify students who may have disabilities and provide appropriate supports for them.

D. Reporting Requirements to NDDPI

The Upper Valley Special Education Unit submits reports to the NDDPI in accordance with N.D. Admin. Code § 67-23-03-02.

See: *Parental Rights for Public School Students Receiving Special Education Service Notice of Procedural Safeguards.*

APPENDIX SECTION 1 – RIGHTS TO EDUCATION

- 1.1 *Selective Screening Instructions*
- 1.2 *Selective Screening Form A – General*

1.1 Selective Screening Instructions

- A. *Purpose: To obtain written permission from parent/guardian to gather and review information on selected children who are referred to special education due to identified risk factors. (Speech, language and/or hearing needs, use Form B.)*
- B. *Used by: Any staff member who requires specific information on any one student.*
- C. *Prerequisite to: Anytime a child is singled out for the purpose of screening.*
- D. *A written summary of the results should follow.*
- E. *Copies to: Student's cumulative file, special education folder (if applicable).*

NOTE: Qualified personnel will identify risk factors which impact the student's ability to learn through:

- *hearing screening to verify any hearing risk indicators;*
- *speech and language screening to verify problems in the formulation or articulation of speech or any delay in the development of language;*
- *preschool screening which typically includes vision, hearing, cognitive, motor, speech-language, and health components to verify developmental delays; and*
- *screening for secondary level students who are at-risk or have dropped out of school to verify that the reasons for dropping out are not related to a previously unidentified disability.*



**UPPER VALLEY SPECIAL EDUCATION
SELECTIVE SCREENING PARENT PERMISSION FORM**

Date _____

_____ school requests permission to locally provide an
informal screening of _____ (date of birth _____, grade ____)
(Name of Student)

for the following reasons:

The screening will consist of the following activities:

The person responsible for the screening:

I give my permission for the screening

I deny my permission for the screening

Date

(Parent/Guardian Signature)

Consent expires after one calendar year.

SECTION 2: EVALUATION

IV. PROCEDURES FOR EVALUATION AND DETERMINATION OF ELIGIBILITY (20 U.S.C. 1412(a)(6)(B), (1412)(a)(7); 1414(a),(b), and (c); 34 CFR 300.122; 300.300-300.311)

The school district has in effect policies and procedures consistent with federal law and state guidelines that address initial evaluation, evaluation procedures, determination of needed evaluation data, determination of eligibility, procedures for determining eligibility, placement, and reevaluation. The school district understands that a student cannot be determined to be eligible for special education solely because of limited English proficiency, because the student fails to meet the school discipline code, or because the student lacks instruction in reading or math.

A. Policy

The Upper Valley Special Education Unit adheres to the policies, standards, and procedures relating to procedures for evaluation and determination of eligibility as set forth in *Guidelines: Evaluation Process* (North Dakota Department of Public Instruction 2007) and ensures the requirements of §300.300 through 300.311 are implemented consistently. Specific evaluation procedures, including forms and instructions for their use, are found in the appendix of section 2.

See Appendix Section 2 –Multidisciplinary Team Instructions and Form 2.1

Many UVSE schools utilize intervention teams. A referral to the intervention team is the first step a teacher should take when there is a concern about a student. Each building has established procedures for utilizing the intervention team, and staff should follow those building procedures. The classroom teacher should complete the referral form used by the school. All questions on this form should be answered. Include the address, date of birth, North Dakota State Assessment scores, retention information, and other information that would help the team. If there are any other records (from previous school, IEPs, cumulative file) they should be available at the first intervention meeting. The team will brainstorm ideas to assist the student and teacher in the classroom. These new accommodations will then be implemented in the classroom for a period of time and then the teacher may schedule a follow-up meeting for more suggestions. If the ideas implemented are not successful, the student may be brought back to the team. The team may consider alternative or additional strategies to implement or may see if some screenings in LD, speech, emotion, or attentional areas could benefit the team in deciding whether or not to move to assessment. For example, before a child is tested in the social-emotional area an observation, checklist, and a visit with the counselor could help us to prepare for that or to see if the test is needed. A referral to Upper Valley Special Education for an assessment may be

considered. If a referral for assessment is a possibility at the second intervention team meeting, a special education teacher should be invited to attend the meeting.

Initial Evaluations

These team meetings will also be held at the local building level. In the case where the school staff feel a referral to special education for evaluation is necessary, the appropriate special education staff should be invited to the meeting to develop a student profile, assessment plan and written consent. Recommendations for cognitive and/or behavioral assessments will be brought to the coordinators for approval and scheduling.

See appendices Section 2 - Student Profile: Evaluation 2.2, Assessment Plan 2.3 and Consent for Evaluation 2.4

Re-Evaluations

These team meetings will be held at the local building level with the IEP team to create a student profile and determine if reevaluation is necessary. If deemed necessary, the team will create an assessment plan and written consent. If assessment is not necessary, the team will create an Integrated Written Assessment Report. Recommendations for cognitive and/or behavioral assessments will be brought to the coordinators for approval and scheduling.

See appendices Section 2 - Student Profile: Evaluation 2.2, Assessment Plan 2.3, Consent for Evaluation 2.4 and Integrated Written Assessment Plan 2.5

B. Regulations

1. Parental consent for initial evaluation; and reevaluations (§ 300.300(a), (c), (d))
The Upper Valley Special Education Unit states that it follows the requirements for parental consent stated in §300.300. This section addresses parent consent for initial evaluation, services, and reevaluations. Regulations addressing parental consent are discussed more fully at section VIII. Procedural Safeguards, E. Parental Consent.
2. Initial Evaluation (§ 300.301)
Each school district shall conduct a full and individual initial evaluation in accordance with §§300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under IDEA Part B. The evaluation must be conducted within 60 calendar days of receiving parental consent for the evaluation.
3. Assessment Plan and Summary Report
Prior to conducting evaluations, the school district will develop a student profile and an assessment plan for each child suspected of having a disability. At the conclusion of an evaluation, the school district will prepare an integrated written assessment report of assessment results for each child referred for an evaluation.

4. Evaluation Procedures (§ 300.304)

(i) *Notice.* The school district must provide notice to the parents of a child with a disability, in accordance with § 300.503, that describes any evaluation procedures the school district proposes to conduct.

(ii) *Student Evaluation Policy (Approved April 13, 1988)*

Children who are having difficulty in school or showing developmental delays at home are referred to Upper Valley Special Education by parents, teachers, and administrators. Our involvement may include a school visit, a home visit, a behavioral program, consultation, referral to other agencies, screening, evaluations, or direct service. Parental permission is obtained prior to a formal evaluation. The evaluation may be completed at the school by special education staff, consulting psychologists, or contracted specialists. It will depend on the nature and severity of the child's difficulties as to which evaluation service will be utilized.

Financial Responsibility

Upper Valley Special Education will pay for evaluations in all areas related to the suspected disability including: health, where appropriate; vision, hearing; social and emotional status; general intelligence; academic performance; communication, sensory, and motor abilities.

However:

- (a) *We may ask that you use family insurance, or similar third party payments, in whatever amount is allowed, for determining a child's medically related handicapping condition which results in the child's need for special education and related service. We will cover costs not covered by insurer or medical assistance OR if necessary, pay the total cost.*
- (b) *Parents will assume such costs for a child with a disability child as they would if the child did not have a disability. Personal items, including but not limited to: hearing aids, eye glasses, routine medical expenses, physical exams, medications, and all items necessary for a nondisabled child, will be the financial responsibility of the parent.*
- (c) *We may withhold payment until a report of the evaluator's findings is received in our office.*

Parent Reimbursement

Parent and staff will be reimbursed for taking children to evaluations or attending staffing requested by Upper Valley Special Education at state rates. In order for reimbursement to be made, a reimbursement form must be filled out. They are available from the UVSE Office or from a UVSE Coordinator.

Parents/staff must keep receipts. We will reimburse for meals for one child and one adult for the actual cost or the state reimbursement per

diem, whichever is less. Lodging reimbursement will not exceed state rate plus tax per night with prior approval from UVSE.

To receive reimbursement money, receipts must be sent along with the reimbursement form to:

*Upper Valley Special Education
PO Box 272
Grafton ND 58237*

This form should be sent as soon after the evaluation as possible to insure more prompt payment. Bills are paid following the monthly meeting of the UVSE Board.

See Appendix Section 2 – Reimbursement Form 2.6

Should you get duplicate bills from the evaluating agency, you may forward them to our office. As we must wait for your insurance to clear the charges, it will often take several weeks before our office makes payment to the evaluation agency.

Summary

- (a) *Upper Valley Special Education will pay for evaluations we request to determine your child's special education needs. Payment may be withheld until a report of evaluation findings is received in our office.*
 - (b) *We may bill your insurance, or similar third party payment such as medical assistance, prior to paying the total bill with parental consent.*
 - (c) *We will pay only for evaluations of a diagnostic nature, and not for:*
 - (1) *Treatment*
 - (2) *Medication*
 - (3) *Routine follow-up*
 - (4) *Purely medical concerns unrelated to education*
 - (d) *There should be no cost to the parent on education matters.*
- (iii) *Conduct of evaluation. In conducting the evaluation, the school district must—*
- (a) *Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—*
 - (1) *Whether the child is a child with a disability under § 300.8; and*
 - (2) *The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);*
 - (b) *Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and*

- (c) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (iv) *Other evaluation procedures.* Each school district must ensure that—
 - (a) Assessments and other evaluation materials used to assess a child under this part—
 - (1) Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - (2) Are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;
 - (3) Are used for the purposes for which the assessments or measures are valid and reliable;
 - (4) Are administered by trained and knowledgeable personnel; and
 - (5) Are administered in accordance with any instructions provided by the producer of the assessments.
 - (b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child’s aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child’s impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
 - (d) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
 - (e) Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with those children’s prior and subsequent schools, as necessary and as expeditiously as possible, consistent with § 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.
 - (f) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
 - (g) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

5. Multidisciplinary Team (§ 300.306(a)(1))
The determination of eligibility evaluation is made by a group of qualified professionals and the parent of the child.
6. Determination of Eligibility (§ 300.306)
 - (i) *General.* Upon completion of the administration of assessments and other evaluation measures—
 - (a) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in § 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
 - (b) The school district provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.
 - (ii) *Special rule for eligibility determination.* A child must not be determined to be a child with a disability under this part—
 - (a) If the determinant factor for that determination is—
 - (1) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
 - (2) Lack of appropriate instruction in math; or
 - (3) Limited English proficiency; and
 - (b) If the child does not otherwise meet the eligibility criteria under § 300.8(a).
 - (iii) *Procedures for determining eligibility and educational need.*
 - (a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each school district must)
 - (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child’s physical condition, social or cultural background, and adaptive behavior; and
 - (2) Ensure that information obtained from all of these sources is documented and carefully considered.
 - (b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§ 300.320 through 300.324.
7. Reevaluation (§ 300.303)
 - (i) *General.* A school district must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311—
 - (a) If the school district determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
 - (b) If the child’s parent or teacher requests a reevaluation.
 - (ii) *Limitation.* A reevaluation conducted under paragraph (a) of this section—

- (a) May occur not more than once a year, unless the parent and the public agency agree otherwise; and
 - (b) Must occur at least once every 3 years, unless the parent and the school district agree that a reevaluation is unnecessary.
- (iii) *Guidelines for Completing Late Spring And Early Fall Assessments*
*Three year evaluations/assessments should be completed **by the date** listed on the first page of the IEP.*

*The IEP must be written within **30 calendar days** after the determination of the disability.*

The following suggestions are offered as guidelines to assist staff in managing assessment time lines.

- (a) *For those assessments scheduled in the spring:*
 - (1) *Assessments must be completed far enough in advance to allow for the Integrated Written Assessment Report to be completed prior to the end of the first full week in May so that the IEP will be developed prior to the end of school.*
 - (2) *When a disability under IDEA is identified, the IEP meeting will occur prior to the end of school.*
- (b) *For those 3-year reevaluations due between May 1 and September 30:*
 - (1) *Three-year reevaluation must be completed prior to a student moving to another building/case manager when that move is anticipated.*
 - (2) *The Integrated Written Assessment Report must be completed prior to the end of school.*

See Appendix Section 2 – 3-Year Evaluation Compliance Instructions 2.7

8. Additional group members (§ 300.308)
 The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in § 300.8, must be made by the child’s parents and a team of qualified professionals, which must include—
- (i) (a) The child’s regular teacher; or
 - (b) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
 - (c) For a child of less than school age, an individual qualified under ND law to teach a child of his or her age; and
 - (ii) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.
9. Specific learning disabilities (§ 300.307)

- (i) *General.* A State must adopt, consistent with § 300.309, criteria for determining whether a child has a specific learning disability as defined in § 300.8(c)(10). In addition, the criteria adopted by the State—
 - (a) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10);
 - (b) Must permit the use of a process based on the child’s response to scientific, research-based intervention; and
 - (c) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in § 300.8(c)(10).
 - (ii) *Consistency with State criteria.* A school district must use the NDDPI criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.
10. Determining the existence of a specific learning disability (§ 300.309)
- (i) The group described in § 300.306 may determine that a child has a specific learning disability, as defined in § 300.8(c)(10), if—
 - (a) The child does not achieve adequately for the child’s age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child’s age or State-approved grade-level standards:
 - (1) Oral expression.
 - (2) Listening comprehension.
 - (3) Written expression.
 - (4) Basic reading skill.
 - (5) Reading fluency skills.
 - (6) Reading comprehension.
 - (7) Mathematics calculation.
 - (8) Mathematics problem solving.
 - (b) (1) The child does not make sufficient progress to meet age or State approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child’s response to scientific, research-based intervention; or
 - (2) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with §§ 300.304 and 300.305; and
 - (c) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of—
 - (1) A visual, hearing, or motor disability;
 - (2) Intellectual Disability;

- (3) Emotional disturbance;
 - (4) Cultural factors;
 - (5) Environmental or economic disadvantage; or
 - (6) Limited English proficiency.
- (ii) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in §§ 300.304 through 300.306—
 - (a) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
 - (b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child’s parents.
 - (iii) The school district must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in §§ 300.301 and 300.303, unless extended by mutual written agreement of the child’s parents and a group of qualified professionals, as described in § 300.306(a)(1)—
 - (a) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and
 - (b) Whenever a child is referred for an evaluation.
11. Observation (§ 300.310)
- (i) The school district must ensure that the child is observed in the child’s learning environment (including the regular classroom setting) to document the child’s academic performance and behavior in the areas of difficulty.
 - (ii) The group described in § 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to—
 - (a) Use information from an observation in routine classroom instruction and monitoring of the child’s performance that was done before the child was referred for an evaluation; or
 - (b) Have at least one member of the group described in § 300.306(a)(1) conduct an observation of the child’s academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with § 300.300(a), is obtained.
 - (iii) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.
12. Specific documentation for the eligibility determination (§ 300.311)
- (i) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in § 300.306(a)(2), must contain a statement of—
 - (a) Whether the child has a specific learning disability;

- (b) The basis for making the determination, including an assurance that the determination has been made in accordance with § 300.306(c)(1);
- (c) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (d) The educationally relevant medical findings, if any;
- (e) Whether—
 - (1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with § 300.309(a)(1); and (ii)(A) The child does not make sufficient progress to meet age or State approved grade-level standards consistent with § 300.309(a)(2)(i); or (B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with § 300.309(a)(2)(ii);
- (f) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and
- (g) If the child has participated in a process that assesses the child's response to scientific, research-based intervention—
 - (1) The instructional strategies used and the student-centered data collected; and
 - (2) The documentation that the child's parents were notified about—
 - (A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided; (B) Strategies for increasing the child's rate of learning; and (C) The parents' right to request an evaluation.
- (ii) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

APPENDIX SECTION 2 - EVALUATION

- 2.1 Intervention Team Summary Instructions*
- 2.2 Student Profile: Evaluation*
- 2.3 Assessment Plan*
- 2.4 Consent for Evaluation*
- 2.5 Integrated Written Assessment Report*
- 2.6 Reimbursement Form*
- 2.7 3-Year Evaluation Compliance Instructions*

2.1 Intervention Team Summary Instructions

- A. *Purpose: A long term goal of the Upper Valley Special Education Program is the development of intervention teams at the building level in all school districts. This form is used to document such team efforts in addressing unique needs of students and developing appropriate recommendations and must be used when developing an assessment plan.*

Used by: Can be used by any group involved in the educational programming of any child (regular ed/special ed).

- B. *Team members: Possible team members include building administrator, classroom teachers, special ed staff, parents, representatives from other agencies, Chapter I teacher, counselors, the child, etc.*
- C. *Prerequisite to: May serve as the first step prior to a formal referral to special education.*
- D. *Copies to: Student's cumulative folder, building administrator, teacher making the referral to the Child Study Team, and special education folder when placed.*

NOTE: *Schools may have their own form for this. In those cases where another form has been used, the information contained in the Team Summary will be required prior to referral to the multidisciplinary team.*

2.2 Student Profile: Evaluation

Student Profile: Evaluation

Student Name	Date of Birth	Grade	Meeting Date
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Did this child transition from Part C services (early childhood only)? Yes No Date of Part C referral:

The multidisciplinary team proposes to conduct an evaluation for the following purposes: Initial Evaluation Student needs/programming Other: Reevaluation Dismissal/exiting Parent and school have determined re-evaluation is not necessary

A copy of the "Parental Rights for Public School Students Receiving Special Education Services - Notice of Procedural Safeguards" was provided.

A copy of the "Parental Rights for Public School Students Receiving Special Education Services - Notice of Procedural Safeguards" must be given to you at least one time per year. You may also obtain a copy of this booklet at any time from your local special education office.

The Student Profile is an integration of information from many sources, including the student's family. The following characteristics/influences were considered in the team discussion. The areas stated on the profile are significant to meeting the student's unique needs.

List Team Members:

Cognitive Functioning - Listening skills, listening comprehension, ability compared to same age peers

Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
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Academic Performance - Reading, math, learning styles, etc.

Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
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Communicative Status - Receptive and expressive language	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
Physical Characteristics - Medical, vision, hearing, motor	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
Emotional/Social Development - Social skills, leisure	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
Adaptive Characteristics (including adaptive behavior) - Self care, independent living, self direction, health and safety, work	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
Ecological Factors - Functional skills and community participation, home/family, neighborhood	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment
Other:	
Student Characteristics/Influences - Sources of Information - Findings	Questions to Answer Through Assessment

Check here if the Student Profile has been completed and the team has determined that no additional information is needed to determine/confirm the student's disability and educational needs. The child's parents have been notified of this determination and reasons thereof, and the right to request assessment procedures to determine disability or educational needs in accordance with 300.305(d).

Documentation that Reevaluation not Needed:

The parent and school district should discuss the advantages and disadvantages of conducting a reevaluation, as well as what effect a reevaluation might have on the child's educational program.

Document discussion here:

Check here if the parent agrees that a reevaluation is not necessary. Check here if the school district agrees that a reevaluation is not necessary.

Parent(s)/Legal Guardian or Adult Student Signature:

_____ (18 years or older unless parents obtain legal guardianship)

LEA Representative Signature:

2.3 *Assessment Plan*

Upper Valley Special Ed Unit
 Grifton, ND 58237-0272
 (701) 352-2574

Assessment Plan

Student Name	Date of Birth	Grade	Current Date
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Consideration for Nonbiased Assessment:

Do any of the following areas impact how the student will be assessed? If so, check all that apply and address how areas will be assessed within the "Assessment Procedures" section.

culture environment economic sensory (vision, hearing, motor) emotional other

Questions should focus on the student's method of learning as well as the learning environments.

Cognitive Functioning Additional Information from Student Profile:

Questions to Answer Through Assessment	Assessment Procedures	Person(s) Responsible

Academic Performance Additional Information from Student Profile:

Questions to Answer Through Assessment	Assessment Procedures	Person(s) Responsible

Upper Valley Special Ed Unit
Box 772
Grafton, ND 58237-0772
(701) 352-2574

2.4 Consent for Evaluation

Consent for Evaluation

Student:

School:

Date:

The multidisciplinary team proposes to conduct an evaluation for the following purposes: Initial Evaluation Student needs/programming Other: Reevaluation Dismissal/exiting

The proposed action is based on a review of information and/or a collection of additional data.

I have received a copy of the "Parental Rights for Public School Students Receiving Special Education Services – Notice of Procedural Safeguards" booklet. I have received a full explanation and understand the procedural safeguards available to me as stated in this document.

Yes No **Date:** As the parent of , I agree with the multidisciplinary team's proposed evaluation.

Yes No **Date:**

Parent Signature(s)

Yes No Parent signature obtained and filed in Student's permanent record

One copy of this form will be retained in the school records and one copy will be given to the parent(s).

2.5 *Integrated Written Assessment*

Initial Re-evaluation

Integrated Written Assessment Report

Student Name	Date of Birth	Grade	Current Date
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The Integrated Written Assessment Report (IWAR) is an integration of all current and relevant data that have been gathered and reviewed to make disability determination decisions. Each of the areas listed and discussed below should be considered and documented during the team's analysis of the assessment findings:

- observational information relating to the student's current level of functioning;
- input from all team members that reflects all areas of the student's current level of functioning;
- consideration of nondiscriminatory procedures that were addressed throughout the evaluation process;
- all other current and relevant data relating to the child; and
- determination of the child's disability.

Check here that the multidisciplinary team has considered that the child's disability is not due to lack of instruction in reading or math and/or limited English proficiency. If one or more of these factors is at issue, please summarize the team's considerations.

Does the student have a disability according to ND Guidelines? Yes No Does the IEP Team recommend proceeding to the IEP Process ? Yes No

Primary Disability:

Secondary Disability:

Supporting Documentation for SLD

The information in this report establishes:

1. The student does not achieve adequately for **{.his,her}** age or to meet state-approved grade-level standards in one or more of the following areas when provided with learning experiences and instruction appropriate for **{.his,her}** age or state-approved grade-level

standards:

- Oral Expression Basic Reading Skill Mathematics Calculation
- Listening Comprehension Written Expression Reading Fluency Skill
- Reading Comprehension Mathematics Problem Solving

2. The student does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the 8 areas above when using a process based on the student's response to scientific, research-based intervention; Yes No **OR** The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that was determined by the evaluation team using appropriate assessment procedures. Yes No

3. The team has determined its finding of SLD is not primarily the result of visual, hearing, or motor disability, intellectual disability, emotional disturbance, cultural factors, environmental or economic disadvantages; or limited English proficiency. Yes No

4. Data has been gathered which demonstrates that prior to, or as part of the referral process, the student was provided appropriate math and/or reading instruction in regular education settings by qualified personnel; and data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, was provided to the parents. Yes No

5. At least one team member other than the child's regular teacher has observed the child's academic performance and behavior related to the areas of difficulty in the routine classroom setting; Yes No **OR** In the case of a child less than school age or out of school, a team member has observed the child in an environment appropriate for a child of that age. Yes No

Evaluation Team Member	Title	Agree with Determination Team Members in Attendance
	Parent(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Parent(s)	<input type="checkbox"/> Yes <input type="checkbox"/> No

	Special Educator	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Regular Educator (Not less than one):	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Individual to interpret Instructional implications of Evaluations results	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Administrator/Designee of the LEA	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No

If Initial Evaluation took longer than 60 days from Initial Consent date to Date for ND disability on IWAR, document reason here:

Reason for determination being completed after 3rd birthday:

Parent/legal guardian Signature(s)/or adult student 18 years or older unless parents obtain legal guardianship

Yes No Parent/legal guardian or adult student signature obtained and filed in Student's permanent record Yes No Check here that the child's parents received a copy of this Integrated Written Assessment Report on



2.6 Reimbursement Form

**UPPER VALLEY SPECIAL EDUCATION
REIMBURSEMENT FORM**

NAME AND ADDRESS

CHILD EVALUATED

PLACE OF EVALUATION

DATES OF EVALUATION

TOTAL MILEAGE

MEAL EXPENSES

(Attach Receipts)

HOTEL EXPENSES

(Attach Receipts)

Date _____

Parent Signature: _____

2.7 3-Year Evaluation Compliance

To monitor 3-year evaluation compliance, monthly TIEnet reports on upcoming 3-year evaluations are reviewed by the administrative assistant and coordinators. Corrections are noted and specific guidance is given to case managers.

SECTION 3: INDIVIDUALIZED EDUCATION PROGRAM

V. INDIVIDUALIZED EDUCATION PROGRAM (20 USC sec. 1414(d)-(f); 34 CFR §§ 300.320 – 300.328)

A. Policy and Standards

The Upper Valley Special Education Unit adheres to the policies, standards, and procedures relating to the individualized education program as set forth in *Guidelines: Individualized Education Program (IEP) Planning Process*, (North Dakota Department of Public Instruction 2007), and ensures that all requirements are implemented consistently. As defined at § 300.22, “individualized education program” or “IEP” means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with § § 300.320 through 300.324. As defined at § 300.23, “individualized education program team” or “IEP team” means a group of individuals described in § 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

North Dakota Century Code §15.1-32-12, provides for the development of an individualized education program:

If a school district has evidence of a student’s disability, the school district shall convene a multidisciplinary team consisting of educational professionals, medical professionals, and the student’s parent to share assessment information related to the student’s suspected disability. If necessary, the team shall develop an individualized education program or services plan and make recommendations for the delivery of special education and related services to the student.

B. Regulations and Procedures

1. **Responsibilities to develop IEP or IFSP (§300. 112, 300.124, 300.306(c)(2))**
Except as provided in §§300.130-300.144 (Children with Disabilities Enrolled by Their Parents in Private Schools), the NDDPI, school districts, all special education units, state operated programs, and programs in other public agencies shall ensure that an individualized education program (IEP), or individualized family service plan (IFSP) is developed and implemented for each child with a disability served by that entity or for whom that entity is responsible, and will review, and if appropriate, revise its provisions periodically and at least annually.

For children participating in early intervention programs assisted under IDEA-Part C and who will participate in preschool programs assisted under IDEA-Part B, each school district will participate in transition planning conferences arranged by the lead agency. Procedures for this transition, including timelines, are specified in the following table.

North Dakota Early Childhood Transition Process

<u>Timeline</u>	<u>Activity</u>
	<p>The initials following each activity represent the agency or agencies responsible for the activity. EI – Early Intervention (Infant Development and/or Developmental Disabilities) <i>*Infant Development has primary responsibility if the child is enrolled in the ID program.</i> DD – Developmental Disabilities LEA – Local Education Agency</p>
Prior to child's 2 nd birthday	<ul style="list-style-type: none"> • Share “Understanding Early Childhood Transition” Guide – EI • Development of IFSP transition outcome(s) – EI • LEA receives child’s name, date of birth, and parent contact information – EI
Prior to child turning 2 years 7 months	<ul style="list-style-type: none"> • Parent(s) signs release of information to share their child’s evaluations, current IFSP, and other relevant information - EI • Information sent to LEA - EI • In consultation with parents and LEA; schedule transition planning meeting – EI • Transition planning meeting prior notice sent to family and other team members – EI/LEA
By the time the child is 2 years 7 months of age	<p>Transition planning meeting is held to:</p> <ul style="list-style-type: none"> • Review the IDEA – Part B Procedural Safeguards – LEA • Discuss eligibility under IDEA Part-B – LEA • Discuss continuum of services and visits to placement options – LEA/EI • Discuss eligibility re-determination of DD Case Management – DD • Review current assessments – LEA/EI • Determine need of additional assessments or information – LEA/DD • If additional evaluations are needed, jointly develop assessment plan – LEA/EI • Parent(s) sign consent(s) for evaluation if further evaluations are needed – LEA/EI
Prior to child turning 2 years 9 months	<ul style="list-style-type: none"> • Assist family in exploring placement options - EI • Conduct multi-agency evaluation if needed – LEA/EI • DD case management eligibility re-determination completed -DD • In consultation with parents, schedule the 2 yrs 9 months meeting – LEA/EI • Prior Notice sent to family and team members – EI/LEA
By the time the child is 2 years 9 months of age	<p>2 year 9 month meeting is held to:</p> <ul style="list-style-type: none"> • Share DD case management eligibility results – DD • Determine disability under IDEA Part – B – LEA • If the child is found to be eligible, the IEP Meeting is held: <ul style="list-style-type: none"> ○ Review IDEA Part-B Procedural Safeguards – LEA ○ Write IEP or IFSP with IEP required components – LEA/EI ○ Parents sign consent for placement if eligible for IDEA Part B

	<p>services – LEA</p> <ul style="list-style-type: none"> • If the child is found not to be eligible, discuss service options and develop transition plan – EI • Updates IFSP to reflect transition plan, including follow up activities – EI
By the child's 3 rd birthday	<ul style="list-style-type: none"> • If the child is eligible, receive services through the Preschool Special Education program – LEA • If the child is not eligible, transition services will be provided to other community supports and services – EI
By the time the child is 3 years 3 months of age	<ul style="list-style-type: none"> • Initiate follow up activities as stated in transition plan – EI

2. Each school district in which the parent of an eligible child with a disability resides is responsible for a child's education whether in the local school (public, parochial, or other private) or in another school or facility through contract. The school district is responsible for initiating and conducting a planning conference before referring a child to a private school or facility and to ensure that an appropriate individualized education program will be implemented, reviewed periodically and revised at least annually.

When the IEP Must Be in Effect (§300.323)

3. If the child has been receiving special education the previous year, the school district must ensure that a planning meeting with parents and staff is held early enough in the school year to ensure that an IEP is in effect at the beginning of the school year. This meeting may have been held prior to the end of the previous school year.
4. An IEP must be in effect before placement is made in special education, and before special education and related services are provided to a child, and the IEP will be implemented as soon as possible following the IEP meeting.
5. Each school district shall ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and that each of these teachers and providers is informed of
 - (i) his or her specific responsibilities related to implementing the child's IEP; and
 - (ii) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

If a student transfers from another school district in North Dakota within the same school year, the new school district, in consultation with the parents, must provide services comparable to those described in the child's IEP from the previous school district until the new school district either adopts the child's IEP, or develops, adopts, and implements a new IEP. For a child who had an IEP in another state and transfers within the same school year, the new school district, in consultation with the parents, must provide services comparable to those described in the child's IEP from the previous school district until the new school district conducts an evaluation, if determined to

be necessary by the new school district, and develops, adopts, and implements a new IEP, if appropriate.

IEP or IFSP for Children Aged 3 Through 5 (§300. 323(b))

6. A two year old child with a disability who will turn age three during the school year may continue to be served through the individualized family services plan (IFSP), if determined appropriate by the IFSP/IEP team. Parents must receive written prior notice of the joint IFSP/IEP meeting and also sign a consent for initial placement into special education services.
7. The parents' agreement to use an IFSP for the child instead of an IEP requires written informed consent by the parents that is based on a detailed explanation of the differences between an IFSP and IEP. The IFSP used in North Dakota incorporates all required components of the IEP.

See Appendix 3.1 (IEP Ages 3-5)

IEP Meetings (§300. 324)

8. The school district is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with 300.323(b), an IFSP). However, any member of the team, including the parent or student, may initiate a meeting to review the IEP.
9. A meeting to develop an IEP for the child must be conducted within 30 days of a determination that the child is a child with a disability and needs special education and related services.
10. Each school district shall ensure that the IEP team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revises the IEP as appropriate to address
 - (i) any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general curriculum, if appropriate;
 - (ii) the results of any reevaluation conducted under §300. 303;
 - (iii) information about the child provided to, or by, the parents as described in §300. 305(a)(2);
 - (iv) the child's anticipated needs; or
 - (v) other matters.

In a review of the IEP, the team must consider the special factors described in §300.324(a)(2) (behavior, language needs, blindness/visual impairment, communication needs, assistive technology).

See Appendix 3.2 (IEP Ages 6-15 IEP)

IEP Meeting Attendance (§300.321)

11. (i) *General*. The school district (case manager) must ensure that the IEP Team for each child with a disability includes—
 - (a) The parents of the child;
 - (b) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

- (c) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
 - (d) A representative of the public agency who—
 - (1) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (2) Is knowledgeable about the general education curriculum; and
 - (3) Is knowledgeable about the availability of resources of the public agency.
 - (e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
 - (f) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (g) Whenever appropriate, the child with a disability.
- (ii) *IEP Team attendance.* (1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- (a) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—
 - (i) The parent, in writing, and the school district consent to the excusal; and
 - (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Transition Services Participants on IEP Team (§ 300.321(b))

12. The public agency must invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals of the student and the transition service needed to assist the student in reaching those goals under §300.320(b). If the student does not attend the IEP meeting, the school district shall take other steps to ensure that the student's preferences and interests are considered.
13. In implementing the requirements of §300.320(b), to the extent appropriate, the school district with consent of the parents or a child who has reached the age of majority, also must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the school district shall take other steps to obtain participation of the other agency in the planning of any transition services.

Parent and Student Participation (§§300.321, 300.328)

14. Each school district shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place.

The required notice must indicate the purpose, time, and location of the meeting and who will be in attendance; and inform the parents of the provisions in §300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).

For a student with a disability beginning at age 16, or younger, if appropriate, the notice must also indicate that a purpose of the meeting will be the development of a statement of appropriate measurable postsecondary goals and transition services required in §300.320(b) indicate that the school district will invite the student; and indicate other participating agencies.

15. The parent and school district may agree to use alternative means of meeting participation, such as video conferences and telephone calls.
16. A meeting may be conducted without a parent in attendance if the school district is unable to convince the parents that they should attend. *It is the UVSE policy that case managers make at least two documented attempts to notify the parent(s) before holding the IEP meeting.*
In this case the school district must have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.
17. The school district shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
18. The school district shall give the parent a copy of the child's IEP at no cost to the parent.

Development, Review, and Revision of IEP (§ 300. 320 (d), 300.324)

19. The IEP team also shall consider the following special factors:
- (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
 - (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

- (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 - (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.
 - (v) Consider whether the child requires assistive technology devices and services.
20. If, in considering the special factors described in items 19 and 20 above, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.
 21. In developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child.
 22. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in items 23 and 24 below.
 23. The general education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of:
 - (i) appropriate positive behavioral interventions and strategies for the child; and
 - (ii) supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.320(a)(4).
 24. Nothing in this section shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of the child's IEP, nor to require that additional information be included in a child's IEP beyond what is explicitly listed in section 614 of IDEA [20 U.S.C. §1414] (items 25 through 28 below).

Content of IEP (§ 300.320)

25. The IEP for each child with a disability must include:
 - (i) a statement of the child's present levels of academic achievement and functional performance, including

- (a) how the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or
- (b) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (ii) a statement of measurable annual goals, including academic and functional goals designed to:
 - (a) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum or for preschool children, as appropriate, to participate in appropriate activities; and
 - (b) meet each of the child's other educational needs that result from the child's disability;
 - (c) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.
- (iii) a description of:
 - (a) how the child's progress toward the annual goals described in item 25(b) will be measured; and
 - (b) how the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of
 - (1) their child's progress toward the annual goals; and
 - (2) the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.
- (iv) a statement of the special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
 - (a) to advance appropriately toward attaining the annual goals;
 - (b) to be involved and progress in the general curriculum in accordance with item 25(a) of this section and to participate in extracurricular and other nonacademic activities; and
 - (c) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
- (v) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in item 25(d);
- (vi) (a) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and districtwide assessments consistent with section 612(a)(16) of IDEA [20 U.S.C. § 1412(a)(16)], and
 - (b) if the IEP team determines that the child must take an alternate assessment instead of a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of

- (1) why the child cannot participate in the regular assessment, and
 - (2) why the particular alternate assessment selected is appropriate for the child.
- (vii) the projected date for the beginning of the services and modifications described in item 25(d), and the anticipated frequency, location, and duration of those services and modifications.
26. With regard to transition services, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, the IEP must include-
- (i) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - (ii) The transition services (including courses of study) needed to assist the child in reaching those goals.
27. Beginning at least one year before a student reaches the age of majority under state law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B, if any, that will transfer to the student on reaching the age of majority, consistent with §300.520. In North Dakota, the age of majority is 18.
28. Special rules concerning the content of IEPs for students with disabilities convicted as adults and incarcerated in adult prisons are contained in §300.324
- (d). The following requirements do not apply to these students with disabilities:
- (a) the requirements contained in §300.320(a)(6) (relating to participation of children with disabilities in general assessments);
 - (b) the requirements in §300.320(b) (relating to transition planning and transition services), with respect to the students whose eligibility under Part B of IDEA will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release;
 - (c) subject to 28(d) below, the IEP team of a student with a disability, who is convicted as an adult under state law and incarcerated in an adult prison, may modify the student's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated; and
 - (d) the requirements of §§300.320 relating to IEPs, and 300.112 relating to LRE, do not apply with respect to the modifications described in item 28(c) above.

Agency Responsibilities for Transition Services (§ 300.324(c))

29. If a participating agency, other than the school district, fails to provide transition services described in the IEP of a student with a disability, the school district responsible for the student's education shall, as soon as possible, reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

Nothing relieves any participating agency, including the state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

IEP Development for Students Placed in Private School by Public Agency (§ 300.325)

30. When a child with a disability is placed in a private school, institution, or in a public school district other than the child's district of residence, policies are established for development, maintenance, and evaluation of the individualized education program.
- (a) Before a school district places a child with a disability in, or refers a child to a private school or facility, the school district shall initiate and conduct a meeting to develop an IEP for the child in accordance with 300.320 and 300.324.
 - (b) The school district shall insure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the school district shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls.
 - (c) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school, or facility in which the child is placed, at the discretion of the child's school district of residence.
 - (d) If the private school or facility initiates and conducts these meetings, the school district of residence shall insure that the parents and a school district representative: (i) are involved in any decision about the child's IEP; and (ii) agree to any proposed changes in the IEP before those changes are implemented.
 - (e) Even if a private school or facility implements a child's IEP, compliance responsibility remains with the child's school district of residence.

VI. LEAST RESTRICTIVE ENVIRONMENT (20 U.S.C. 1412(a)(5); 34 CFR 300.114 through 300.20)

A. Policy

The Upper Valley Special Education Unit adheres to the policies, standards, and procedures for least restrictive environment (LRE) as set forth in *Guidelines: Individualized Education Program Planning Process* (North Dakota Department of Public Instruction 2007), and ensures that all requirements are implemented consistently. Specific procedures, including forms and instruction for their use are included in *Appendix Section 3*.

The Upper Valley Special Education Unit ensures that to the maximum extent appropriate, children with disabilities, including students in public or private institution or other care facilities and those of preschool age, are educated with children who do not have disabilities, and that enrollment in special classes,

separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily.

B. Regulations

Continuum of Alternative Placements (§ 300.115)

1. Each school district shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include the alternative placements listed in the definition of special education under §300.28. Types of education alternatives include but are not limited to:
 - regular class: receiving special education and related services less than 21 percent of the school day
 - resource room: receiving special education and related services 60 percent or less and at least 21 percent of the school day
 - separate class: receiving special education and related services more than 60 percent of the school day
 - public separate school facility: receiving special education and related services more than 50 percent of the school day in separate facilities
 - private separate school facility: receiving special education and related services more than 50 percent of the school day in private separate school facilities
 - public residential facility: receiving special education and related services more than 50 percent of the school day in a public residential facility
 - private residential facility: receiving special education and related services more than 50 percent of the school day in a private residential facility
 - homebound/hospital: receiving education in hospital or homebound program

2. *Educational Environments for Children Ages 3-5:*
 - *regular early childhood program at least 80 percent of the time (A1)*
 - *regular early childhood program 40 percent to 79 percent of the time (A2)*
 - *regular early childhood program less than 40 percent of the time (A3)*
 - *separate class; special education program with less than 50 percent non-disabled children (B1)*
 - *separate school; education program in public or private day schools for children with disabilities (B2)*
 - *residential facilities; education program in publicly and privately operated residential schools (B3)*
 - *home; special education and related services in the principle residence of the child's family or caregivers (B4)*
 - *service provider location; special education related services from a service provider in a separate class, separate school or residential facility (B5)*

The continuum must make provision for supplementary services (such as a resource room or itinerant instruction) to be provided in conjunction with regular class placement.

The selection of a particular alternative setting or arrangement is to be made by determining the least restrictive environment in which the appropriate educational goals for the child could be achieved.

Placements (§ 300.116)

3. Educational placement decisions must be made (a) at least annually; (b) by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data and the placement options, who consider carefully broad-based, documented information about the child; (c) based on the child's IEP; (d) as close as possible to the child's home; and (e) is made in conformity with the LRE provisions of §§ 300.114 through 300.118.
4. The school district must insure that the various placements included under §300.115 are available to the extent necessary to implement the IEP for each child with a disability.
5. Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if he or she did not have a disability.
6. In selecting the LRE, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs.
7. The school district shall insure that a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Nonacademic Settings (§ 300.117)

8. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, and regardless of the core placement alternative selected the school district assures that a child with a disability participates with nondisabled children to the maximum extent appropriate to the needs of the child with a disability. The school district must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP team to be appropriate and necessary for the child to participate in nonacademic settings.

To assure that providing or arranging for nonacademic and extracurricular services and activities is addressed, the student's individualized education program must respond to a specific question regarding the arrangements that will be made so that each child with a disability participates with children who do not have disabilities to the maximum extent appropriate to the needs of the child.

Children in Public or Private Institutions (§ 300.118)

9. The school district assures the NDDPI of its implementation of the LRE requirements in 300.114, as required by 300.118. By state statute, the school district is responsible to ensure that the needs identified by an IEP team for the children with disabilities who reside in the school district and who are unable to attend a public school in the school district of residence unit or any child placed out of the school district are being met. N.D.C.C. § 15.1-32-15.

C. Procedures

The NDDPI document *Guidelines: Individualized Education Program Planning Process* (North Dakota Department of Public Instruction 2007) directs IEP teams to discuss the following when considering and justifying service options:

1. sites and settings for special education services that have been previously tried, where the student now receives service, and what sites and services are presently recommended to meet the student's needs.
2. sites and settings that were considered in current or previous staffings but were not chosen, and why these placements were not chosen.
3. supports used to facilitate previous placements, what considerations resulted in discontinuing these placements, and what efforts are planned to prepare the student to return to a less restrictive environment; and the special education interventions that have been tried in previous placements and the progress the student has or has not made with these interventions.
4. student learning characteristics as they relate to the placements considered: rate of skill acquisition and overall functioning level; need for social interaction and leisure skills training; need for limited environmental distractions; and need for restricted space within a building (ability to operate without definite boundaries or within an unstructured or less structured environment).
5. programmatic components in determining regular education options for the student: content of regular classroom; structure of the regular classroom; balance of regular education content areas with functional, social, and community skills training; and supports needed to facilitate social, physical, or academic integration/inclusion.
6. placement location chosen as it relates to the student's specific identified needs.
7. potential harmful effects and quality of services issues. A situation does not have a harmful effect if actions taken by a school official can prevent or diminish the effect (e.g., a principal disciplining peers who do not have disabilities who constantly tease or taunt a student with disabilities). Considerations may include: behavioral characteristics (effect of student behaviors on the learning of other students within his or her classroom, neighboring classrooms, and/or school building); potential damaging attitudes of nondisabled peers, staff, or others who do not have disabilities; special health or safety needs; and miscellaneous factors.

VII.

PLACEMENT IN PRIVATE SCHOOLS (20 U.S.C. 1412(a)(10); 34 CFR 300.129- 300.148)

A. Policy

IDEA addresses the subject of private school children with disabilities in three major categories:

1. Students with disabilities placed in private schools by public agencies (§§ 300.145 through 300.147).
2. Students with disabilities unilaterally placed in a private school by parents, due to disagreement about whether a student is receiving a free appropriate public education (FAPE) (referenced in IDEA regulations as “children with disabilities enrolled by their parents in private schools when FAPE is at issue” at § 300.148) .
3. Students with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in § 300.13 or secondary school in § 300.36 (referenced in IDEA regulations as “parentally placed private school children with disabilities” at § 300.130).

Policy for students with disabilities placed in private school by a public agency: A student with a disability who is placed in or referred to a private school or facility by a public agency will (1) be provided with special education and related services in conformance with an individualized education program which meets the requirements under 300.320-300.325; and at no cost to parents, and (2) will be provided an education that meets all applicable federal, state, and local standards.

If a student with a disability is placed in a private school or facility by the school district, the Upper Valley Special Education Unit assures that the student has all the rights he/she would have if served by a public school.

Policy for parentally placed private school children with disabilities. When parents choose to enroll their child in a private school, either nonsectarian or religiously affiliated, the student has no individual right to receive the special education and related services the child would receive if enrolled in the public school. Parentally placed private school students are entitled to some special education and related services according to a proportionate share of funding based on a consultative process for allocating that proportionate share.

B. Regulations

The Upper Valley Special Education Unit follows guidance provided through *Policy Paper* IDEA 04 Students with Disabilities who Attend Private Schools (North Dakota Department of Public Instruction, December 2005) (“Private School Policy Paper”), and ensures compliance with the regulations.

Requirements related to state funding for special education provided to public agencies are addressed by rules in ND Admin. Code Chapter 67-23-02.

Placement of Children by Parents if Free Appropriate Public Education (FAPE) is at Issue (§ 300.148)

1. *General.* IDEA does not require a school district to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if the school district made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the school district must include that child in the population whose needs are addressed consistent with §§ 300.131 through 300.144.
2. If a parent contends that an appropriate program for the student does not exist and hence is forced to seek private schooling and the school district disagrees, that disagreement and the question of financial responsibility is a matter to which due process procedures under §§ 300.504 through 300.520 apply.
3. Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a school district, enroll the child in a private preschool, elementary or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the school district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the school district had not made FAPE available to the child in a timely manner prior to that enrollment and the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the state standards that apply to education provided by the state education agency (SEA) and the local education agencies (LEA).
4. Limitation on reimbursement. The cost of reimbursement described in item 3 may be reduced or denied if
 - (i) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the school district to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
 - (ii) at least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the school district of the information described in item 4 (a).
5. The cost of reimbursement described in item 3 may be reduced or denied if, prior to the parents' removal of the child from the school district, the school district informed the parents, through the notice requirements described in §300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation, or upon a judicial finding of unreasonableness with respect to actions taken by the parents.
6. Notwithstanding the notice requirement in item 4, the cost of reimbursement may not be reduced or denied for failure to provide the notice if:
 - (i) compliance with item 4 of this section would likely result in physical or serious emotional harm to the child;
 - (ii) the school prevented the parent from providing the notice; or

- (iii) the parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph 4 of this section.
- 7. Notwithstanding the notice requirement in item 4, the cost of reimbursement may, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if
 - (i) The parents are not literate or cannot write in English, or
 - (ii) Compliance with item 4 would likely result in serious emotional harm to the child.

The regulations set out below in the remainder of section VII.B apply to parentally placed private school children with disabilities.

Child Find for Private School Children with Disabilities (§ 300.131)

- 8. Each school district must locate, identify, and evaluate all children with disabilities, in accordance with §300.111 and 300.201. The child find process must be designed to ensure the equitable participation of parentally-placed private school children and an accurate count of those children. The activities undertaken to carry out this responsibility for private school children with disabilities must be similar to activities undertaken for children with disabilities in public schools.
- 9. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if a school district has met its obligation under §300.133. The child find process must be completed in a time period comparable to that for students attending public schools in the school district consistent with §300.301. Each school district in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a state other than the State in which the private schools that they attend are located.

Provision of Services—Basic Requirement (§ 300.132)

- 10. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district, provision must be made for the participation of private school children with disabilities in the program assisted or carried out under Part B of IDEA by providing them with special education and related services including direct services determined in accordance with §300.137, unless the secretary of the United States Department of Education has arranged for services to those children under the by-pass provisions of §§300.190 through 300.198.
- 11. The Upper Valley Special Education Unit ensures that, in accordance with item 10 of this section and §§300.137 through 300.139, a services plan will be developed and implemented for each private school child with a disability who has been designated by the school district in which the private school is located to receive special education and related services under Part B of IDEA. Each school district must maintain in its records, and provide to the

NDDPI, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

- (i) The number of children evaluated;
- (ii) The number of children determined to be children with disabilities; and
- (iii) The number of children served.

Expenditures and Child Count (§ 300.133)

12. To meet the requirement of §300.132(a), each school district must spend on providing special education and related services (including direct services) to parentally-placed private school children with disabilities—
- (i) for children aged 3 through 21, an amount that is the same proportion of the school district total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district, is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and
 - (ii) for children aged 3 through 5, an amount that is the same proportion of the school district total subgrant under section 619(g) of the Act as the number of parentally placed private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district.
 - (iii) As described in item 13(b) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13. “*Elementary school* means a nonprofit institutional day or residential school...that provides elementary education, as determined under State law.” North Dakota state law sets out the minimum requirements for operation of a school at N.D.C.C. §15.1-06-06, approval of public and nonpublic schools.

If school district has not expended for equitable services all of the funds described in items 13(a) and 13(b) of this section by the end of the fiscal year for which Congress appropriated the funds, the school district must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

- (iv) *Calculating proportionate amount.* In calculating the proportionate amount of federal funds to be provided for parentally-placed private school children with disabilities, the school district, after timely and meaningful consultation with representatives of private schools under § 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities

attending private schools located in the school district. (See *Private School Policy Paper* for an example of how proportionate share is calculated).

See Appendix – Section 3 Special Education Services for Children with Disabilities In Private Schools Agreement 3.4

13. Each school district must after timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with § 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the school district; and ensure that the count is conducted on December 1 of each year.
14. The count must be used to determine the amount that the school district must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.
15. State and local funds may supplement and in no case supplant the proportionate amount of federal funds required to be expended for parentally-placed private school children with disabilities.

Consultation (§ 300.134)

16. To ensure timely and meaningful consultation, a school district, or, if appropriate, the NDDPI, must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:
 - (i) Child find. The child find process, including—
 - (1) How parentally-placed private school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers, and private school officials will be informed of the process.
 - (ii) *Proportionate share of funds*. The determination of the proportionate share of federal funds available to serve parentally-placed private school children with disabilities under § 300.133(b), including the determination of how the proportionate share of those funds was calculated.
 - (iii) *Consultation process*. The consultation process among the school district, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.
 - (iv) *Provision of special education and related services*. How, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of—
 - (1) The types of services, including direct services and alternate service delivery mechanisms; and

- (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally placed private school children; and
- (3) How and when those decisions will be made;
- (v) *Written explanation by school district regarding services.* How, if the school district disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the school district will provide to the private school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

Written affirmation (§ 300.135)

- 17. (i) When timely and meaningful consultation, as required by § 300.134, has occurred, the school district must obtain a written affirmation signed by the representatives of participating private schools.
- (ii) If the representatives do not provide the affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the NDDPI.

Compliance (§ 300.136)

- 18. (i) *General.* A private school official has the right to submit a complaint to the NDDPI that the school district—
 - (a) Did not engage in consultation that was meaningful and timely; or
 - (b) Did not give due consideration to the views of the private school official.
- (ii) *Procedure.*
 - (a) If the private school official wishes to submit a complaint, the official must provide to the NDDPI the basis of the noncompliance by the school district with the applicable private school provisions in this part; and
 - (b) The school district must forward the appropriate documentation to the NDDPI.
 - (c)(1) If the private school official is dissatisfied with the decision of the NDDPI, the official may submit a complaint to the secretary of the United States Department of Education by providing the information on the basis of the noncompliance and
 - (2) The NDDPI must forward the appropriate documentation to the secretary.

Equitable Services Determined (§ 300.137)

- 19. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school. Decisions about the services that will be provided to private school children with disabilities under §§300.130-300.144, must be made in accordance with items 16 and 25 of this section.

20. The school district shall make the final decisions with respect to the services to be provided to eligible parentally-placed private school children.
21. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from a school district, the school district must:
 - (i) initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and
 - (ii) ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

Equitable Services Provided (§ 300.138)

22. The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of §300.18.
23. Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.
24. No private school child with a disability is entitled to any service or to any amount of a service the child would receive if enrolled in a public school.
25. Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the school district will provide to the child in light of the services that the school district has determined, through the process described in §§ 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.
26. The services plan must, to the extent appropriate, meet the requirements of §300.320 or for a child ages three through five, requirements of §300.323(b) with respect to the services provided; and be developed, reviewed, and revised consistent with §§ 300.321 through 300.324.

The provision of services pursuant to section §300.138 and §§300.139 through 300.143 must be provided by employees of an LEA; or through contract by the LEA with an individual, association, agency, organization, or other entity. Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

Location of Services; Transportation (§ 300.139)

27. Services provided to parentally-placed private school children with disabilities may be provided on-site at a child's private school, including a religious school, to the extent consistent with law.

28. If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation:
 - (i) from the child's school or the child's home to a site other than the private school; and
 - (ii) from the service site to the private school, or to the child's home, depending on the timing of the services.
29. School districts are not required to provide transportation from the child's home to the private school.
30. The cost of the transportation described in item 28 may be included in calculating whether the school district has met the requirement of §300.133.

Due Process and State Complaints (§ 300.140)

Except as provided below regarding child find requirements, the procedures in §§300.504 through 300.518 [procedural safeguards and dispute resolution] do not apply to complaints that a school district has failed to meet the requirements of §§300.132 through 300.139 [provision of services for parentally-placed private school children with disabilities] including the provision of services indicated on the child's services plan. The procedures in §§300.504 through 300.519 apply to complaints that a school district has failed to meet the child find requirements in §300.131, including the requirements in §§300.300 through 300.311 [evaluations]. Any due process complaint regarding the child find requirements (as described in item 8) must be filed with the school district in which the private school is located and a copy must be forwarded to the NDDPI.

Any complaint that NDDPI or a school district has failed to meet the requirements in §§300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in §§300.151 through 300.153 [state complaint]. A complaint file by a private school official under §300.136(a) [complaint about consultation] must be filed with the NDDPI in accordance with the procedures in §300.136(b).

Separate Classes Prohibited (§ 300.143)

31. A school district may not use funds available under section 611 or 619 of IDEA for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site, and the classes include students enrolled in public schools and students enrolled in private schools.

Requirement that Funds not Benefit A Private School (§ 300.141)

32. A school district may not use funds provided under section 611 or 619 of IDEA to finance the existing level of instruction in a private school or to otherwise benefit the private school.
33. The school district must use funds provided under Part B of IDEA to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for the needs of a private school; or the general needs of the students enrolled in the private school.

Use of Public School Personnel (§ 300.142)

34. A school district may use funds available under sections 611 and 619 of IDEA to make public school personnel available in other than public facilities to the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities, and if those services are not normally provided by the private school.

Use of Private School Personnel (§ 300.142)

35. A school district may use funds available under sections 611 or 619 of IDEA to pay for the services of an employee of a private school to provide services under §§300.130-300.144 if the employee performs the services outside of his or her regular hours of duty; and the employee performs the services under public supervision and control.

Requirements Concerning Property, Equipment, and Supplies for the Benefit of Private School Children with Disabilities (§ 300.144)

- 36. An LEA must control and administer the funds used to provide special education and related services under §§ 300.137 through 300.139, and keep title to and, administer materials, equipment, and property that the LEA purchases with those funds for the uses and purposes provided in IDEA.
- 37. The LEA may place equipment and supplies in a private school for the period of time needed for the Part B program.
- 38. The LEA must ensure that the equipment and supplies placed in a private school are used only for Part B purposes; and can be removed from the private school without remodeling the private school facility.
- 39. The LEA must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
- 40. No funds under Part B of IDEA may be used for repairs, minor remodeling, or construction of private school facilities.

C. Procedure

- 1. Whenever a student with a disability is to be placed in a private school at school district expense, the NDDPI will require the appropriate contract between the school district and the private school with approval by the NDDPI as required by state law.N.D.C.C.§15.1-32-15..
- 2. Each private school must make accessible for review, to the NDDPI upon request, each services plan for a student with a disability.

D. Monitoring

- 1. The Upper Valley Special Education Unit has established an internal monitoring system that ensures compliance with requirements relating to student with disabilities who attend private schools, as well as attention to issues of quality. The description of the internal monitoring system is included *in Section 5 XI of this handbook and participation in IEP meetings.*

2. Placement is approved and attendance verified annually for each publicly-placed student attending a private school in or out-of-state by the State Director of Special Education and payment authorized by the Director of Finance, NDDPI.

E. *Informational Chart For Private/Out Of Unit Programs*

1. *Purpose: To determine who will insure that the following procedures will be carried out according to federal guidelines when a student is placed in a private or out-of-unit program.*
2. *Used by: Private and out-of-unit programs, program coordinators, case managers*
3. *Prerequisite: This form should be completed as soon as there is knowledge of a student placement at a private or out-of-unit program.*
4. *Guidelines:*

Private school placements (300.348)

When a child with a disability is placed in a private school, institution, or in a public school district other than the child's district of residence by the special education unit (or Department of Public Instruction under specific provision of Public Law 101-476 and 102-119) policies are established for development, maintenance, and evaluation of the individualized education program.

- (i) *Before a special education LEA/unit places a child with a disability in, or refers to a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with 300.343. The LEA/unit will also develop an IEP for each child with a disability who was placed in a private school or facility by the agency before the effective date of regulations.*
- (ii) *The agency shall insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the LEA/unit will use other methods to insure participation by the private school or facility, including individual or conference telephone calls.*
- (iii) *The student's school district of residence is responsible for development and will ensure implementation of the IEP for each child with a disability.*
- (iv) *After a child with a disability enters a private school or facility, meetings to review and revise the child's IEP may be initiated and conducted by the private school, nonpublic and LEA/unit in which the child is placed with consent of the child's school district of residence.*

If the private school or facility initiates and conducts these meetings, the LEA/unit will insure that the parents and an agency representative: (1) are involved in any decision about the child's IEP; and (2) agree to any proposed changes in the program before those changes are implemented.

- (v) *When a child with a disability enrolled in a private school and is receiving services from a special education unit, the special education unit will initiate and conduct meetings to develop, review, and revise an IEP for the child and will ensure implementation of the IEP and that the private representatives are included in the meetings.*

(vi) *Even if a private school or facility implements a child's IEP, compliance responsibility remains with the child's school district of residence and the Department of Public Instruction.*

Children with disabilities in parochial and other private schools (300.349)

If a child with a disability is enrolled in a parochial or other private school and receives special education or related services from a LEA/unit, the LEA/unit will: (a) initiate and conduct meetings to develop, review, and revise an IEP for the child, in accordance with 300.343; and (b) insure that a representative from the parochial or other private school attends each meeting. If the representative cannot attend, the LEA/unit will use other methods to insure participation by the private school, including individual or conference telephone calls.

IEP accountability (300.350)

Each LEA/unit must provide special education and related services to a child with a disability in accordance with an IEP.

Informational Chart For Private Out Of Unit Programs

Procedural Responsibility When Students are Placed in Private/Out of Unit Programs

The following procedures need to be negotiated between the district of residence and the private/out of unit program to determine who will insure that those procedures will be carried out according to federal regulations. The procedure already checked indicate areas of ongoing responsibility for the identified program.

Name of Student: _____
Name of Special Education Unit: _____
Name of Facility/School: _____
Current Date: _____

<i>PROCEDURE</i>	<i>LOCAL SPECIAL EDUCATION UNIT WILL TAKE RESPONSIBILITY FOR PROCEDURE</i>	<i>PRIVATE/OUT OF UNIT PROGRAM/SCHOOL WILL TAKE RESPONSIBILITY FOR PROCEDURE</i>
<i>Initiate Annual IEP Review and Send Written Prior Notice for IEP Meeting including Parent Rights</i>		

<i>Conduct Annual IEP Review</i>		
<i>Attend IEP Review</i>	<i>X</i>	<i>X</i>
<i>Periodic Monitoring of IEP</i>	<i>X</i>	<i>X</i>
<i>Written Prior Notice for 3-Year Re-evaluation including Parent Rights</i>		
<i>Meeting to Develop Assessment Plan for Re-evaluation</i>	<i>X</i>	
<i>Conduct Re-evaluation Assessment Procedures</i>	<i>X</i>	
<i>Independent Evaluations</i>	<i>X</i>	
<i>Amend Educational Records</i>	<i>X</i>	<i>X</i>

<i>Due Process Procedures</i>	<i>X</i>	
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APPENDIX SECTION 3 – INDIVIDUALIZED EDUCATION PROGRAM (IEP)

- 3.1 Individualized Education Program – Ages 3-5*
- 3.2 Individualized Education Program – Ages 6-15*
- 3.3 Individualized Education Program – Transition Ages 16-21*
- 3.4 Special Education Services For Children With Disabilities In Private Schools Agreement*

3.1 Individualized Education Program Ages 3-5

1/5/2017

IEP Ages 3-5

Individualized Education Program Age 3-5						
IEP Meeting Date:						<input type="checkbox"/> Amendment to IEP:
A. Student Name (Last, First, MI)				Birthdate (month/day/year)	Gender	
Grade	Age	Race American Indian or Alaskan native Asian Black or African American Native Hawaiian or Other Pacific Islander White	Ethnicity	Student's Primary Language	Communication Mode	Primary Language Spoken at Home
Current Address			City	State	Zip	Phone Number
Serving School			City	State	Zip	School Phone Number
District of Residence (if different from serving district)		Resident School Building (Plant)		Check items that apply: <input type="checkbox"/> Transferred within district <input type="checkbox"/> Open Enrolled in another district <input type="checkbox"/> Agency Placed <input type="checkbox"/> Home Education		
B. Name of Parent		Home Phone Number		Other Phone Numbers		
Parent's Email Address						
Current Address			City	State	Zip	
Name of Second Parent (if applicable)		Home Phone Number		Other Phone Numbers		
Parent's Email Address						
Current Address			City	State	Zip	
Other:		Home Phone Number		Other Phone Numbers		
's Email Address						
Current Address			City	State	Zip	
C. IEP Case Manager		Case Manager Email Address		Phone Number		
IEP Type		Primary Disability		Secondary Disability		
Date of Last Comprehensive Individual Assessment Report:						
<input type="checkbox"/> A copy of the "Parental Rights for Public School Students receiving Special Education Services – Notice of Procedural Safeguards" was provided.						
	Names of All Team Members				Indicate Attendance	
*Parent					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Parent					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Student					<input type="checkbox"/> Yes <input type="checkbox"/> No	
:					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Administrator/Designee/District Representative (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Education Teacher or Special Education Provider (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
General Education Teacher (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Individual to Interpret Instructional Implications of Evaluation Results (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Add another Team Member						
<input type="checkbox"/> Add another Team Member						
<input type="checkbox"/> Add another Team Member						
<input type="checkbox"/> Add another Team Member						
<input type="checkbox"/> Add another Team Member						
<input type="checkbox"/> Add another Team Member						

https://mw.specialeducation.powerschool.com/templatedocprintblank.aspx?pt=2&template=28&secs=205&returntourl=profiledocuments.aspx%3fpt%3d2%26profile... 1/2

Student Name:

ID#:

D. Present Levels of Academic Achievement and Functional Performance for Students 3-5 years

The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources including parents. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum. Performance areas to be considered are: Cognitive Functioning, Academic Performance, Communicative Status, Physical Characteristics, Emotional/Social Development, Adaptive Characteristics, Ecological Factors, and Other.

[Empty box for student information]

E. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked yes must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
 Yes
 No
2. Is the child blind or visually impaired?
 No
 Yes
3. Is the student deaf or hard of hearing?
 No
 Yes
4. Does the student have communication needs?
 No
 Yes
5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
 No
 Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
 Yes. The IEP team has determined, after considering all areas related to the student's present levels of academic achievement and functional performance, that the student needs assistive technology in order to access the general education curriculum.
6. Does the child's behavior impede the child's learning or the learning of others?
 No
 Yes

Student Name:

ID#:

Annual Goal # of goals

F. Annual Goals, Short-Term Objectives, and Periodic review of services

Reference From

Grade:Grade/Subject

Subject:Code:Domain:

Strand:Domain
Element:

Domain:Sub-
Strand:Topic:

ClusterStandard:Code/Standard:Indicator: Expectation:Outcome:

Grade:Grade/Subject

Subject:Code:Domain:

Strand:Domain
Element:

Domain:Sub-
Strand:Topic:

ClusterStandard:Code/Standard:Indicator: Expectation:Outcome:

Annual Goal

Intent/purpose:

Behavior:

Ending Level:

Characteristics of services:

How and when periodic progress reports will be provided:

Student Name:

ID#:

G. Adaptation of Educational Services

Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g. grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must be given to the special factors indicated in section E of the IEP.

Does the student need instructional and related core materials in an accessible specialized format? Yes No

Identify the alternate format(s) needed for the student:

- None
- Braille
- Large Print
- Digital (e-text)
- Audio

Is the student eligible to receive NIMAS files as certified by a competent authority? Yes No

Please complete a verification of eligibility form.

The student requires instructional materials in an alternate format, but does not qualify for NIMAS files. The school must ensure the student receives instructional materials in an accessible format.

Click Save, Done Editing, and a link to the NIMAS form will appear at the top of this screen.

Describe the student's participation in North Dakota State Assessment. When completing this section consider the next scheduled NDSA testing window.

- Student's current grade does not participate.
- Student will participate in North Dakota **State Assessment** without accommodations.
In the following subject areas: English Language Arts/Literacy Math Science
- Student will participate in North Dakota **State Assessment** with approved accommodations specified in Adaption of Education Services area.
In the following subject areas: English Language Arts/Literacy Math

Universal Tools: Needed Not Needed

Embedded

- Highlighter
- Math tools
- Writing tools
- Calculator (for calculator items only grades 6-8 and 11)
- English glossary
- Keyboard navigation
- Spell check
- Zoom
- Digital notepad
- Expandable passages
- Mark for review
- Strikethrough
- Break
- English Dictionary
- Global notes (for ELA performance tasks)

Non Embedded

- Breaks
- Thesaurus (for ELA-performance task full writes)
- English Dictionary (for ELA-performance task full writes)
- Scratch paper

Designated Supports: Needed Not Needed

Embedded

- Color Contrast
- Masking
- Text-to-speech (for Math stimuli items and ELA items, not for reading passages)
- Translated test directions (for math items)
- Translations (glossaries) (for math items)
- Translations (stacked) (for math items)
- Turn off any universal tools

Non Embedded

- Bilingual dictionary (for ELA-performance task full writes)
- Color Contrast
- Color Overlay
- Magnification
- Read aloud (for math items and ELA items, not for reading passages)
- Scribe (for ELA non-writing items and math items)
- Separate Setting
- Translations (glossaries) (for math items)
- Translated Test Directions
- Noise Buffers

Accommodations: Needed Not Needed

Embedded

- American Sign Language (ELA listening items and Math)
- Streamline
- Braille Non Contracted
- Closed Captioning (for English-Language Arts listening items)
- Text to speech (available for ELA reading passages, all grades)

Student Name:

ID#:

I. Educational Environment

Note: Use this setting information to check the federal child count code. By selecting one of the nine categories, the IEP team affirms that they have considered the continuum of services and the selected setting is believed to be the most appropriate environment for the student.

SETTING - Check one of the following settings:

- (A) Children attending a regular early childhood program at least 10 hours per week:**
 - A1. And receiving the majority of hours of special education and related services **in the regular early childhood program**
 - A2. And receiving the majority of hours of special education and related services in **some other location**
- (B) Children attending a regular early childhood program less than 10 hours per week:**
 - B1. And receiving the majority of hours of special education and related services **in the regular early childhood program**
 - B2. And receiving the majority of hours of special education and related services in **some other location**
- (C) Children not attending a regular early childhood program:**
 - C1. Separate special education class
 - C2. Separate school
 - C3. Residential facility
- (D) Children not attending a regular early childhood program or a special education program (not included in A, B, C above)**
 - D1. Home
 - D2. Service provider location or some other location not in any other category above

SETTING - Check one of the following settings:

- A. Inside regular class 80% or more of day
- B. Inside regular class no more than 79% of day but no less than 40% of day
- C. Inside regular class for less than 40% of day
- D. Separate school
- E. Residential facility
- F. Homebound/hospital
- G. Correctional facility
- H. Parentally placed in private schools

Justification for the team's decision. The IEP team must document why the options selected in determining the environment setting are the most appropriate and least restrictive:

Is there a potential harmful effect to the student with this placement? Yes No

J. Special Education and Related Services

Service	Minutes	Starting Date	Duration	Service Provider (Job Title)	Location of Services

Length of school day:

- The student will attend for the full school day.
- The student will attend for a shorter or longer school day than peers. (Explain why this is necessary.)

Extended School Year (ESY)

Extended school year must be considered for each student with a disability. Justification for the decision made MUST BE STATED BELOW.

- The review of each goal indicates that an extended school year is needed.
- The team has determined that ESY is not necessary.
- The team needs to collect further data before making a determination and will meet again by:

Justification for the team's decision:

Student Name:

ID#:

D. Present Levels of Academic Achievement and Functional Performance for Students Ages 6-15

The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources including parents. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum.

Performance areas to be considered are:

Cognitive Functioning (listening skills, listening comprehension, ability compared to same age peers)

[Empty box for Cognitive Functioning details]

Academic Performance (reading, math, learning styles, etc.)

[Empty box for Academic Performance details]

Communicative Status (receptive and expressive language)

[Empty box for Communicative Status details]

Physical Characteristics (medical, vision, hearing, motor)

[Empty box for Physical Characteristics details]

E. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked yes must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
 Yes
 No
2. Is the child blind or visually impaired?
 No
 Yes
3. Is the student deaf or hard of hearing?
 No
 Yes
4. Does the student have communication needs?
 No
 Yes
5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
 No
 Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
 Yes. The IEP team has determined, after considering all areas related to the student's present levels of academic achievement and functional performance, that the student needs assistive technology in order to access the general education curriculum.
6. Does the child's behavior impede the child's learning or the learning of others?
 No
 Yes

Student Name:

ID#:

Annual Goal # of goals

F. Annual Goals, Short-Term Objectives, and Periodic review of services

Reference From

Grade:Grade/Subject

Subject:Code:

Strand:

Domain:Sub-Strand:

Cluster

Code/Standard:

Expectation:Outcome:

Grade:Grade/Subject

Subject:Code:

Strand:

Domain:Sub-Strand:

Cluster

Code/Standard:

Expectation:Outcome:

Annual Goal

Intent/purpose:

Behavior:

Ending Level:

Characteristics of services:

How and when periodic progress reports will be provided:

Will a graph be used to report progress toward the annual goal and associated objectives? Yes No

Student Name:

ID#:

G. Adaptation of Educational Services

Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g. grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must be given to the special factors indicated in section E of the IEP.

Does the student need instructional and related core materials in an accessible specialized format? Yes No

Identify the alternate format(s) needed for the student:

- None
- Braille
- Large Print
- Digital (e-text)
- Audio

Is the student eligible to receive NIMAS files as certified by a competent authority? Yes No

Please complete a verification of eligibility form.

The student requires instructional materials in an alternate format, but does not qualify for NIMAS files. The school must ensure the student receives instructional materials in an accessible format.

Click Save, Done Editing, and a link to the NIMAS form will appear at the top of this screen.

Describe the student's participation in North Dakota State Assessment. When completing this section consider the next scheduled NDSA testing window.

- Student's current grade does not participate.
- Student will participate in North Dakota **State Assessment** without accommodations.
In the following subject areas: English Language Arts/Literacy Math Science
- Student will participate in North Dakota **State Assessment** with approved accommodations specified in Adaption of Education Services area.
In the following subject areas: English Language Arts/Literacy Math

Universal Tools: Needed Not Needed

Embedded

- Highlighter
- Math tools
- Writing tools
- Calculator (for calculator items only grades 6-8 and 11)
- English glossary
- Keyboard navigation
- Spell check
- Zoom
- Digital notepad
- Expandable passages
- Mark for review
- Strikethrough
- Break
- English Dictionary
- Global notes (for ELA performance tasks)

Non Embedded

- Breaks
- Thesaurus (for ELA-performance task full writes)
- English Dictionary (for ELA-performance task full writes)
- Scratch paper

Designated Supports: Needed Not Needed

Embedded

- Color Contrast
- Masking
- Text-to-speech (for Math stimuli items and ELA items, not for reading passages)
- Translated test directions (for math items)
- Translations (glossaries) (for math items)
- Translations (stacked) (for math items)
- Turn off any universal tools

Non Embedded

- Bilingual dictionary (for ELA-performance task full writes)
- Color Contrast
- Color Overlay
- Magnification
- Read aloud (for math items and ELA items, not for reading passages)
- Scribe (for ELA non-writing items and math items)
- Separate Setting
- Translations (glossaries) (for math items)
- Translated Test Directions
- Noise Buffers

Accommodations: Needed Not Needed

Embedded

- American Sign Language (ELA listening items and Math)
- Streamline
- Braille Non Contracted
- Closed Captioning (for English-Language Arts listening items)
- Text to speech (available for ELA reading passages, all grades)

Student Name:

ID#:

I. Educational Environment

Note: Use this setting information to check the federal child count code. By selecting one of the eight categories, the IEP team affirms that they have considered the continuum of services and the selected setting is believed to be the most appropriate environment for the student.

SETTING - Check one of the following settings:

- (A) Children attending a regular early childhood program at least 10 hours per week:**
 - A1. And receiving the majority of hours of special education and related services **in the regular early childhood program**
 - A2. And receiving the majority of hours of special education and related services in **some other location**
- (B) Children attending a regular early childhood program less than 10 hours per week:**
 - B1. And receiving the majority of hours of special education and related services **in the regular early childhood program**
 - B2. And receiving the majority of hours of special education and related services in **some other location**
- (C) Children not attending a regular early childhood program:**
 - C1. Separate special education class
 - C2. Separate school
 - C3. Residential facility
- (D) Children not attending a regular early childhood program or a special education program (not included in A, B, C above)**
 - D1. Home
 - D2. Service provider location or some other location not in any other category above

SETTING - Check one of the following settings:

- A. Inside regular class 80% or more of day
- B. Inside regular class no more than 79% of day but no less than 40% of day
- C. Inside regular class for less than 40% of day
- D. Separate school
- E. Residential facility
- F. Homebound/hospital
- G. Correctional facility
- H. Parentally placed in private schools

Justification for the team's decision. The IEP team must document why the options selected in determining the environment setting are the most appropriate and least restrictive:

Is there a potential harmful effect to the student with this placement? Yes No

J. Special Education and Related Services

Service	Minutes	Starting Date	Duration	Service Provider (Job Title)	Location of Services

Length of school day:

- The student will attend for the full school day.
- The student will attend for a shorter or longer school day than peers. (Explain why this is necessary.)

Extended School Year (ESY)

Extended school year must be considered for each student with a disability. Justification for the decision made MUST BE STATED BELOW.

- The review of each goal indicates that an extended school year is needed.
- The team has determined that ESY is not necessary.
- The team needs to collect further data before making a determination and will meet again by:

Justification for the team's decision:

3.3 Individualized Education Program- Transition IEP Ages 16-21

1/5/2017

IEP - Transition 16-21

Individualized Education Program Transition (16-21)						
IEP Meeting Date:						<input type="checkbox"/> Amendment to IEP:
A. Student Name (Last, First, MI)				Birthdate (month/day/year)	Gender	
Grade	Age	Race American Indian or Alaskan native Asian Black or African American Native Hawaiian or Other Pacific Islander White	Ethnicity	Student's Primary Language	Communication Mode	Primary Language Spoken at Home
Current Address			City	State	Zip	Phone Number
Serving School			City	State	Zip	School Phone Number
District of Residence (if different from serving district)		Resident School Building (Plant)		Check items that apply: <input type="checkbox"/> Transferred within district <input type="checkbox"/> Open Enrolled in another district <input type="checkbox"/> Agency Placed <input type="checkbox"/> Home Education		
B. Name of Parent		Home Phone Number		Other Phone Numbers		
Parent's Email Address						
Current Address			City	State	Zip	
Name of Second Parent (if applicable)		Home Phone Number		Other Phone Numbers		
Parent's Email Address						
Current Address			City	State	Zip	
Other:		Home Phone Number		Other Phone Numbers		
's Email Address						
Current Address			City	State	Zip	
C. IEP Case Manager		Case Manager Email Address		Phone Number		
IEP Type		Primary Disability		Secondary Disability		
Date of Last Comprehensive Individual Assessment Report						
<input type="checkbox"/> A copy of the "Parental Rights for Public School Students receiving Special Education Services – Notice of Procedural Safeguards" was provided.						
	Names of All Team Members				Indicate Attendance	
*Parent					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Parent					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Student					<input type="checkbox"/> Yes <input type="checkbox"/> No	
:					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Administrator/Designee/District Representative (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Special Education Teacher or Special Education Provider (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
General Education Teacher (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Individual to Interpret Instructional Implications of Evaluation Results (Required)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Adult Services Agency Representative (if applicable)					<input type="checkbox"/> Yes <input type="checkbox"/> No	
Agency Name:						
Date of Parental Consent of outside Agency:						
<input type="checkbox"/> Add another Team Member					<input type="checkbox"/> Yes <input type="checkbox"/> No	
					<input type="checkbox"/> Yes <input type="checkbox"/> No	

<https://mw.specialeducation.powerschool.com/templatedocprintblank.aspx?pt=2&template=29&secs=212&returnurl=profiledocuments.aspx%3fpt%3d2%26profile...> 1/2

Student Name:

ID#:

**Transition Services (ages 16-21) or younger if appropriate
T-1. Measurable Post Secondary Goals**

Education/Training:

Employment:

Independent Living Skills:

**D. Present Levels of Academic Achievement and Functional Performance for
Students Ages 6-21**

The present levels of academic achievement and functional performance (PLAAFP) is an integrated summary of data from all sources. The statement should include information about the student's specific strengths and weaknesses, unique patterns of functioning, and implications of the problem areas on the student's total functioning. The information should also include how the child's disability affects the child's involvement and progress in the general education curriculum. Performance areas to be considered are:

Cognitive Functioning (listening skills, listening comprehension, ability compared to same age peers)

Academic Performance (reading, math, learning styles, etc.)

Student Name:

ID#:

T-2. Course of Study

School Year	Grade Level	List Courses and Educational Experiences to be taken each year	Credits to be earned	Credits Earned	Total Credits Earned

E. Consideration of Special Factors

The IEP Team must consider these factors while developing the IEP. Any factors checked yes must be addressed in the IEP.

1. Has the child been identified by the school district as a child with limited English proficiency?
 No
 Yes
2. Is the child blind or visually impaired?
 No
 Yes
3. Is the student deaf or hard of hearing?
 No
 Yes
4. Does the student have communication needs?
 No
 Yes
5. Does the student need assistive technology devices and services? You may refer to the North Dakota Assistive Technology consideration guide to assure assistive technology is considered in all areas of the student's education.
 No
 Assistive technology to be explored, further consideration is needed to determine if assistive technology is necessary.
 Yes. The IEP team has determined, after considering all areas related to the student's present levels of academic achievement and functional performance, that the student needs assistive technology in order to access the general education curriculum.
6. Does the child's behavior impede the child's learning or the learning of others?
 No
 Yes

Student Name:

ID#:

**T-3. Transition Services
Strategies and Activities Needed to Assist the Student in Reaching Post-Secondary Goals**

Education/Training:

Goal:

Activity	Person/Agency Responsible	Timeline	Instruction	Community Experiences	Employment	Related Service	Adult Living	Daily Living	Func Voc Assess
			<input type="checkbox"/>						

Employment:

Goal:

Activity	Person/Agency Responsible	Timeline	Instruction	Community Experiences	Employment	Related Service	Adult Living	Daily Living	Func Voc Assess
			<input type="checkbox"/>						

(Optional)

Independent Living Skills:

Goal:

Activity	Person/Agency Responsible	Timeline	Instruction	Community Experiences	Employment	Related Service	Adult Living	Daily Living	Func Voc Assess
			<input type="checkbox"/>						

Student Name:

ID#:

Annual Goal # of goals

F. Annual Goals, Short-Term Objectives, and Periodic review of services

Reference From

Grade:Grade/Subject

Subject:Code:

Strand:

Domain:Sub-Strand:

Cluster

Code/Standard:

Expectation:Outcome:

Grade:Grade/Subject

Subject:Code:

Strand:

Domain:Sub-Strand:

Cluster

Code/Standard:

Expectation:Outcome:

Annual Goal

Intent/purpose:

Behavior:

Ending Level:

Characteristics of services:

How and when periodic progress reports will be provided:

Will a graph be used to report progress toward the annual goal and associated objectives? Yes No

Student Name:

G. Adaptation of Educational Services

Describe changes in educational services that will be made to permit successful accommodation and education of this student (e.g. grading, credits, staff, transportation, facilities, materials, Braille, equipment, technology, adaptive devices, curriculum, methods, and other services). Include procedures for monitoring equipment, if applicable. Include consultation, which is not scheduled or predictable. Consideration must be given to the special factors indicated in section E of the IEP.

Does the student need instructional and related core materials in an accessible specialized format? Yes No

Identify the alternate format(s) needed for the student:
 None Braille Large Print Digital (e-text) Audio

Is the student eligible to receive NIMAS files as certified by a competent authority? Yes No

Please complete a verification of eligibility form.
The student requires instructional materials in an alternate format, but does not qualify for NIMAS files. The school must ensure the student receives instructional materials in an accessible format.
Click Save, Done Editing, and a link to the NIMAS form will appear at the top of this screen.

Describe the student's participation in North Dakota State Assessment. When completing this section consider the next scheduled NDSA testing window.

- Student's current grade does not participate.
- Student will participate in North Dakota **State Assessment** without accommodations.
In the following subject areas: English Language Arts/Literacy Math Science
- Student will participate in North Dakota **State Assessment** with approved accommodations specified in Adaption of Education Services area.
In the following subject areas: English Language Arts/Literacy Math

Universal Tools: Needed Not Needed

- | | | | |
|---------------------|---|--|---|
| Embedded | <input type="checkbox"/> Highlighter | <input type="checkbox"/> Keyboard navigation | <input type="checkbox"/> Mark for review |
| | <input type="checkbox"/> Math tools | <input type="checkbox"/> Spell check | <input type="checkbox"/> Strikethrough |
| | <input type="checkbox"/> Writing tools | <input type="checkbox"/> Zoom | <input type="checkbox"/> Break |
| | <input type="checkbox"/> Calculator (for calculator items only grades 6-8 and 11) | <input type="checkbox"/> Digital notepad | <input type="checkbox"/> English Dictionary |
| | <input type="checkbox"/> English glossary | <input type="checkbox"/> Expandable passages | <input type="checkbox"/> Global notes (for ELA performance tasks) |
| Non Embedded | <input type="checkbox"/> Breaks | <input type="checkbox"/> English Dictionary (for ELA-performance task full writes) | <input type="checkbox"/> Scratch paper |
| | <input type="checkbox"/> Thesaurus (for ELA-performance task full writes) | | |

Designated Supports: Needed Not Needed

- | | | | |
|---------------------|--|--|---|
| Embedded | <input type="checkbox"/> Color Contrast | <input type="checkbox"/> Translated test directions (for math items) | <input type="checkbox"/> Translations (stacked) (for math items) |
| | <input type="checkbox"/> Masking | <input type="checkbox"/> Translations (glossaries) (for math items) | <input type="checkbox"/> Turn off any universal tools |
| | <input type="checkbox"/> Text-to-speech (for Math stimuli items and ELA items, not for reading passages) | | |
| Non Embedded | <input type="checkbox"/> Bilingual dictionary (for ELA-performance task full writes) | <input type="checkbox"/> Magnification | <input type="checkbox"/> Separate Setting |
| | <input type="checkbox"/> Color Contrast | <input type="checkbox"/> Read aloud (for math items and ELA items, not for reading passages) | <input type="checkbox"/> Translations (glossaries) (for math items) |
| | <input type="checkbox"/> Color Overlay | <input type="checkbox"/> Scribe (for ELA non-writing items and math items) | <input type="checkbox"/> Translated Test Directions |
| | | | <input type="checkbox"/> Noise Buffers |

Accommodations: Needed Not Needed

- | | | | |
|-----------------|--|--|--|
| Embedded | <input type="checkbox"/> American Sign Language (ELA listening items and Math) | <input type="checkbox"/> Braille Non Contracted | <input type="checkbox"/> Text to speech (available for ELA reading passages, all grades) |
| | <input type="checkbox"/> Streamline | <input type="checkbox"/> Closed Captioning (for English-Language Arts listening items) | |

Student Name:

ID#:

I. Educational Environment

Note: Use this setting information to check the federal child count code. By selecting one of the eight categories, the IEP team affirms that they have considered the continuum of services and the selected setting is believed to be the most appropriate environment for the student.

SETTING:

- A. Inside regular class 80% or more of day
- B. Inside regular class no more than 79% of day but no less than 40% of day
- C. Inside regular class for less than 40% of day
- D. Separate school
- E. Residential facility
- F. Homebound/hospital
- G. Correctional facility
- H. Parentally placed in private schools

Justification for the team's decision. The IEP team must document why the options selected in determining the environment setting are the most appropriate and least restrictive:

Is there a potential harmful effect to the student with this placement? Yes No

J. Special Education and Related Services

Service	Minutes	Starting Date	Duration	Service Provider (Job Title)	Location of Services

Length of school day:

- The student will attend for the full school day.
- The student will attend for a shorter or longer school day than peers. (Explain why this is necessary.)

Extended School Year (ESY)

Extended school year must be considered for each student with a disability. Justification for the decision made MUST BE MADE BELOW

- The review of each goal indicates that an extended school year is needed.
- The team has determined that ESY is not necessary.
- The team needs to collect further data before making a determination and will meet again by:

Justification for the team's decision:

3.4 *Special Education Services for Children with Disabilities in Private Schools Agreement*

- A. *Purpose: To determine how, when, and to which students our unit will provide services to in private schools and to home schooled students.*
- B. *Used by: Private school and home school programs within our unit.*
- C. *Prerequisite: This agreement should be followed whenever a student with a disability is in need of special education services in a private school or at home.*
- D. *Agreement*

Special Education Services for Children with Disabilities in Private Schools North Dakota Department of Public Instruction

The reauthorized Individuals with Disabilities Education Act (IDEA '04) contains the following new regulation:

Sec. 300.134 Consultation.

To ensure timely and meaningful consultation, an LEA, or, if appropriate, an SEA, must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

- (a) Child find. The child find process, including--
 - (1) How parentally-placed private school children suspected of having a disability can participate equitably; and
 - (2) How parents, teachers, and private school officials will be informed of the process.
- (b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under Sec. 300.133(b), including the determination of how the proportionate share of those funds was calculated.
- (c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.
- (d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--
 - (1) The types of services, including direct services and alternate service delivery mechanisms; and
 - (2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and
 - (3) How and when those decisions will be made;
- (e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract) the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

The following is a worksheet a school district may use when negotiating special education services for children with disabilities enrolled by their parents in private schools (when FAPE is not an issue).

1. For which students with disabilities enrolled in private schools will your school district/special education unit provide services? IDEA 04 and North Dakota use the following categories of disabilities:

Specific learning disability

Hearing impairment

Deafness

Visual impairment

Orthopedic impairment

Other health impairment

Traumatic brain injury

Autism

Speech or language impairment

Non-Categorical Delay (ND category for age 3 through the end of the school year in which the child turns 9)

Intellectual Disability

Emotional disturbance

Deaf blindness

2. The public school is obligated to expend for the provision of special education and related services for students placed by their parents in private schools an amount equal to the proportionate amount of federal funds that were made available to the local education agency through its special-education identification process. "Proportionate" is defined as "the amount consistent with the number and location of private school children with disabilities" in the school district.

Number of children with disabilities in your school district who have been placed by their parents in private schools: _____

Total population of students with disabilities in the school district: _____

Percentage of the *total population of students with disabilities in the school district* who have been placed by their parents in private schools: _____

This percentage is the proportionate amount of federal funds that were made available to the school district through its special education identification process which is to be expended for the provision of special education and related services for students placed by their parents in private schools.

- 3.
- 4.
- 5.
6. Which services will be offered to students with disabilities in private schools? (*specific learning disability services, speech-language therapy, occupational therapy, physical therapy, etc.*)

7. Location. Special education and related services will be provided:

☆ in the private school

☆ in the public school

8. Transportation. If it is necessary for a child to benefit or participate in services, the private school student must be provided transportation in the following instances:

A. From the child's private school or home to a site other than the private school; and

B. From the site of that service back to the private school.

Transportation (clarify what will/will not be provided):

9. Child Find activities, including evaluation procedures as part of Child Find procedures, will be conducted in a manner that is comparable to that for public school children. As agreed to through this consultation, Child Find activities in private schools will be conducted in the following manner:

10. The effectiveness of special education and related services will be evaluated with the following method(s):

The persons indicated below were participants in this consultation:

_____, Representative of the _____ Public School
District (Name)

_____, Representative of the _____ School
(Name) (private/parochial school).

_____, Parent
(Name)

Date: _____

SECTION 4: PROCEDURAL SAFEGUARDS

VIII. PROCEDURAL SAFEGUARDS (20 U.S.C. 1412(a)(6), 1414(a)(1)(D), 1414(c)(3), 1414(f); 1415; 34 CFR 300 150, 300.300, 300.500 through 300.537

The Upper Valley Special Education Unit adheres to the policies, standards, and procedures as set forth in *Guidelines: Procedural Safeguards: Prior Notice and Parental Consent Procedures* (2007), and *Parental Rights for Public School Students Receiving Special Education Services*. The unit ensures that procedural safeguards requirements are consistently implemented. Specific procedures, including forms and instruction in their use, are found in *the Appendix Section 4*.

The terms "consent," "evaluation," and "personally identifiable" are defined as follows:

Consent as defined in §300.9 means that the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication; the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

Evaluation as defined in §300.15 means procedures used in accordance with §§300.304-300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Personally identifiable as defined in §300.32 means that information includes the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's social security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

A. Opportunity to Examine Records; Parent Participation in Meetings (§ 300.501)

1. Policy

The school district ensures that the parent of a child with a disability must be afforded, in accordance with §§300.613-300.621, an opportunity to (1) inspect and review all educational records pertaining to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education (FAPE) to such a child, and (2) participate in meetings with respect to the identification, evaluation, and educational placement of the child, and provision of FAPE to the child.

2. Regulations (§ 501(b) and (c))
 - (i) A school district must afford the parents of a child with a disability an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of the child, and the provision of free appropriate public education to the child, in accordance with the procedures of sections 300.613 through 300.621.
 - (ii) Each school district must provide notice consistent with §300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of their child, as well as the provision of FAPE to the child. A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
 - (iii) Each school district must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child. In implementing these requirements, the school district must use procedures consistent with the procedures described in §300.322(a) through (b)(1).
If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.
 - (iv) A placement decision may be made by a group without the involvement of the parents, if the school district is unable to obtain the parents' participation in the decision. In this case, the school district must have a record of its attempt to ensure their involvement.

See Appendix Section 4 – Record Locator Instructions and Forms 4.1 – 4.2 – make to look like UVSE

B. Independent Educational Evaluation (§ 300.502)

1. Policy

The parents of a child with a disability have the right to obtain an independent educational evaluation of the child at public expense if the parent disagrees with an evaluation obtained by the school district, subject to item 2 below.

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.103.

2. Regulations

- (i) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the school district.
- (ii) The school district shall provide to parents, on request for an independent educational evaluation, information about where an independent evaluation may be obtained, and the school district criteria applicable for independent educational evaluations as set forth in the paragraph below. The following resources may provide independent educational evaluations:

Assessment & Therapy Associates
Family Institute PC
Fire Audiological
Lipp, Carlson and Witucki, LTD
North East Human Service Center
Altru Health
Sanford Health
North Dakota Vision Services
Valley Vision
UND Speech, Language Hearing Clinic
Anne Carlsen Outreach Services
North Dakota School for the Deaf
Heartland Eye Care
The Village Family Service Center

- (iii) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay, either (1) file a due process complaint to request a hearing to show that its evaluation is appropriate, or (2) ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to §§ 300.507 through 300.518 that the evaluation obtained by the parent did not meet school district criteria. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
- (iv) If a parent requests an independent educational evaluation, the school district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.
- (v) If the parent obtains an independent educational evaluation at private expense, or shares with the school district an evaluation obtained at private expense, the results of the evaluation must be considered by the school district, if it meets school district criteria, in any decision made with

respect to the provision of FAPE to the child; and may be presented as evidence at a hearing under this subpart regarding that child.

- (v) A hearing officer may request an independent educational evaluation as part of a hearing. If so, the evaluation must be conducted at public expense.
- (vi) If an independent educational evaluation 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 school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.
- (vii) A parent is entitled to only one independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

C. Prior Notice by the School District; Content of Notice (§ 300.503)

1. Policy

Written prior notice which meets the requirements of § 300.503(b) and 300.504 must be given to parents a reasonable time before the school district proposes to initiate or change, or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. If this notice is related to an action proposed by the school district that also requires parental consent under §300.300, the school district may give notice at the same time it requests parent consent.

2. Regulations

- (i) The written notice must include:
 - (a) the action proposed or refused by the school district and an explanation of why the school district proposes or refuses to take action;
 - (b) a description of any other options considered by the school district and the reasons for rejecting those options,
 - (c) a description of each evaluation procedure, assessment, record, or report the school district used as a basis for the proposed or refused action, and
 - (d) a description of any other factors that are relevant to the school district's proposal or refusal;
 - (e) a statement that the parents of a child with a disability have protection under the procedural safeguards of IDEA and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

- (f) sources for parents to contact to obtain assistance in understanding procedural safeguards.
- (ii) The notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. It is not feasible to give parents written notice if the native language or other mode of communication of the parent is not a written language. In this case, the school district shall take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the above requirements have been met.

D. Procedural Safeguards Notice (§ 300.504, 300.505)

1. Policy

A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents upon initial referral or parent request for evaluation; upon receipt of the first state complaint under §§300.151 through 300.153; upon receipt of the first due process complaint under §300.507 in a school year, in accordance with the discipline procedures in §300.530(h); and upon request by a parent. A school district may place a current copy of the procedural safeguards notice on its internet website if a website exists.

2. Regulations

The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §300.148, §§ 300.151 through 300.153, § 300.300, §§ 300.502 through 300.503, §§ 300.505 through 300.518, § 300.520, §§ 300.530 through 300.536 and §§ 300.610 through 300.625 relating to the following: independent educational evaluation; prior written notice; parental consent; access to educational records; opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including the time period in which to file a complaint; the opportunity for the school district to resolve the complaint; and the difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures; the child's placement during pendency of any due process complaint; procedures for students who are subject to placement in an interim alternative educational setting; requirements for unilateral placement by parents of children in private schools at public expense; mediation; due process hearings, including requirements for disclosure of evaluation results and recommendations; civil actions including the time period in which to file those actions; and attorneys' fees.

The notice must meet the requirements of §300.503(c) with regard to understandable language. The notice must be written in language understandable to the general public and must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence of the requirements of this item have been met.

A parent of a child with a disability may elect to receive notices by an electronic mail communication, if the school district makes that option available.

E. Parental Consent (§ 300.300)

1. Policy

The Upper Valley Special Education Unit ensures that written parental consent is obtained prior to conducting an initial evaluation or reevaluation; and initial provision of special education and related services to a child with a disability. Consent for initial evaluation may not be construed as consent for initial placement.

2. Regulations

(i) Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation; or administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children. The school district must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

(a) For initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, the school district is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if-

(1) Despite reasonable efforts to do so, the school district cannot discover the whereabouts of the parent of the child;

(2) The rights of the parents of the child have been terminated in accordance with North Dakota law; or

(3) The rights of the parents to make educational decisions have been subrogated by a judge in accordance with North Dakota law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(ii) If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the school district may continue to pursue those evaluations by using the due process procedures under §§300.507-

300.516, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with North Dakota law relating to parental consent. The school district does not violate its obligation under § 300.111 and §§ 300.301 through 300.311 if it declines to pursue the evaluation.

- (iii) Consent to services. The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child. If the parent of a child fails to respond or refuses to consent to the initial provision of services the school district may not use the procedures in the procedural safeguards (including the mediation procedures under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the school district.
 - (a) Will not be considered to be in violation of the requirement to make available FAPE to the child for the failure to provide the child with the special education and related services for which the school district requests consent; and
 - (b) Is not required to convene an IEP Team meeting or develop an IEP under §§ 300.320 and 300.324 for the child for the special education and related services for which the school district requests such consent.
- (iv) Informed parental consent need not be obtained for reevaluation if the school district can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond. To meet the reasonable measures requirement, the school district must use procedures consistent with those in §300.322(d). If the parent refuses to consent to the reevaluation, the school district may, but is not required to, pursue the reevaluation by using the consent override procedures described in item b. The school district does not violate its obligation under § 300.111 and §§ 300.301 if it declines to pursue the evaluation or reevaluation.
- (v) A school district may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit, or activity of the public agency, except as required by 34 CFR Part 300.
- (vi) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district may not use the consent override procedures (described in item b); and the school district is not required to consider the child as eligible for services under §§ 300.132 through 300.144.

F. Mediation (20 U.S.C. 1415(e); §300.506)

1. Policy

The NDDPI has established and implemented procedures to allow parties to disputes involving any matter under IDEA Part B, including matters arising prior to the filing of a due process complaint, to resolve the disputes through a mediation process that, at a minimum is provided by NDDPI whenever a hearing is requested under §§300.507 or 300.508-300.520. Mediation is addressed by administrative rules at ND Admin. Code §§ 67-23-04-02 and 67-23-04-03.

A brochure, *Mediation in Special Education and Section 504*, provides a description of the mediation process and procedures. The school district distributes to parents or parents can access the brochure at

<http://www.dpi.state.nd.us/speced/resource/conflict/index.shtm>.

2. Regulations and Procedures

- (i) The procedures must ensure that the mediation process is voluntary on the part of the parties; is not used to deny or delay a parent's right to a hearing on the parent's due process hearing complaint, or to deny any other rights afforded under Part B of IDEA; and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- (ii) The NDDPI shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. If a mediator is not selected on a random (e.g., a rotation) basis from the list, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.
- (iii) An individual who serves as a mediator (1) may not be an employee of any LEA or any state agency described under §300.228; or an SEA that is providing direct services to a child who is the subject of the mediation process; and (2) must not have a personal or professional conflict of interest. A person who otherwise qualifies as a mediator is not an employee of an LEA or state agency described under §300.228 solely because he or she is paid by the agency to serve as a mediator.
- (iv) The NDDPI shall bear the cost of the mediation process, including the costs of meetings described in item h.
- (v) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- (vi) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and is signed by both the parent and a representative of the agency who has the authority to bind such agency. A written, signed mediation agreement under this paragraph

is enforceable in any state court of competent jurisdiction or in a district court of the United States.

- (vii) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.
- (viii) A school district may establish procedures to offer to parents and schools who elect not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with a parent training and information center or community parent resource center in ND established under section 671 or 672 of IDEA, or an appropriate alternative dispute resolution entity; and who would explain the benefits of the mediation process, and encourage the parents to use the process. A school district may not deny or delay a parent's right to a due process hearing under §300.507 if the parent fails to participate in this meeting.

G. Complaint Procedure (20 U.S.C.1221e-3; 34 CFR § 300.151-300.153)

The NDDPI has a procedure to investigate and act on complaints made against the state, special education unit or school district relative to compliance with Part B of IDEA. The intent of this complaint procedure is to address matters of a public agency (state, unit or district) allegedly violating a requirement of Part B of IDEA. Complaint procedures are addressed by administrative rules at N.D. Admin. Code §§ 67-23-04-02, 67-23-04-04, and 67-23-04-05.

An organization or individual may file a signed, written complaint that must include a statement that a requirement of Part B of IDEA has been violated and the facts on which the statement is based. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §300.151. The complaint must include the signature and contact information for the complainant; and if alleging violations with respect to a specific child, the name and address of the residence of the child; the name of the school the child is attending; in the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending; a description of the nature of the problem of the child, including facts relating to the problem; and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. The party filing the complaint must forward a copy of the complaint to the school district serving the child at the same time the party files the complaint with NDDPI. The complaint is to be addressed to the Director of Special Education, Department of Public Instruction, 600 East Boulevard Avenue, Dept. 201, Bismarck, ND 58505-0440.

A time limit of 60 calendar days after the complaint is filed is allowed to investigate and issue a written decision. An extension of the 60 day time limit may be granted only if exceptional circumstances exist with respect to a particular complaint, or the parent and the other party involved agree to extend the time to engage in mediation or in other alternative means of dispute resolution.

The investigator will interview all parties involved and make a determination of whether an on-site investigation of the complaint is necessary. The NDDPI makes an independent determination as to whether the public agency is violating a requirement of Part B of IDEA and issues a written decision to the complainant that addresses each allegation in the complaint that meets criteria for investigation. The written decision will contain the findings of fact and conclusions and the reasons for the final decision. Procedures for effective implementation of the NDDPI final decision, if needed, may include technical assistance activities, negotiations and corrective actions to achieve compliance.

At any time during the complaint process, a request for due process hearing procedures may be initiated.

H. Due Process and Review (20 U.S.C. §1415(b)(6), §300.507 - 300.518)

Due process hearings are addressed by administrative rules at N.D. Admin. Code §§ 67-23-04-02 and 67-23-04-06.

A due process hearing, which is a formal legal proceeding, may be requested if the parent of a child with disabilities or a child who may have a disability, disagrees with the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child. The school district may also request a due process hearing when a parent has refused consent for evaluation or to demonstrate that the school district has conducted an appropriate evaluation, or offered a free appropriate public education to a student with a disability.

Hearing requests are made to: Director of Special Education, ND Department of Public Instruction, 600 East Boulevard Avenue, Dept 201, Bismarck, ND 58505-0440.

IDEA 04 has added the requirement of a resolution process after the school district receives a parent's due process complaint, pursuant to §300.510. The purpose of the resolution process is to provide an opportunity for the parent and school district to discuss the issues presented in the due process complaint and resolve the dispute.

I. Surrogate Parents (§ 300.519)

1. Policy

The Upper Valley Special Education Unit ensures that the child's rights are protected whenever no parent can be identified; the school district, after reasonable efforts, cannot locate a parent; the child is an unaccompanied youth, or the child is a ward of the state, through the assignment of an

individual to act as a surrogate for the parent or guardian. *Ward* is defined as "a person for whom a guardian has been appointed." NDCC § 30.1-26-01.

The Upper Valley Special Education Unit adheres to policies and procedures set forth in NDDPI *Guidelines: Educational Surrogate Parent, North Dakota Educational Surrogate*

Parent, Inservice Training, and Educational Surrogate Parent Manual (2007). The Upper Valley Special Education Unit has established specific procedures for determining whether a child needs a surrogate parent and for assigning such a surrogate parent for the purpose of special education and related services. The surrogate parent may be selected in any way permitted under North Dakota law.

2. Regulations (§ 300.519)
 - (i) The following criteria apply to the selection of surrogate parents.
 - (a) The surrogate parent may have no personal or professional interest that would conflict with the interest of to the child he/she represents.
 - (b) The surrogate parent must have knowledge and skills to ensure adequate representation of the child. The school district must provide training to assure these skills and knowledge. If appropriate, training may be provided to foster parents.
 - (c) The surrogate parent may not be an employee of any state or local governmental agency that is involved in the education or care of the child. A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. If deemed appropriate, a surrogate parent may receive some remuneration for serving in this role.
 - (ii) The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child.
 - (iii) In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to requirements of non-employment by the NDDPI, LEA, or other agency, until a surrogate parent can be appointed that meets all of the requirements of this section.
3. *Surrogate Parents (300.514)*
 - (i) *Policy*

The Upper Valley Special Education Unit (UVSE) assures that the learner's rights are protected whenever the parents or guardians of the learner are not known, are unavailable, or the learner is a ward of the state through the assignment of an individual to act as a guardian. "Ward of the state" is defined as "a person for whom a guardian has been appointed."

The Upper Valley Special Education Unit (UVSE) assures that a surrogate has no other vested interest that would conflict with his/her primary allegiance to the learner she/he represents; that the surrogate has the knowledge and skills to represent the learner; that the surrogate is not an employee of any state or local governmental agency involved with the care or education of the learner; that the surrogate will represent the learner in all matters relating to identification, evaluation, and education placement and the provision of a free appropriate public education is available to the learner at no cost to the learner, parent, or surrogate parent.

(ii) Procedure

The Upper Valley Special Education Unit utilizes the ND Department of Public Instruction Surrogate Parent Manual.

The need for a surrogate may be lessened if the person with whom the learner lives acts as the parent. Given the regulatory definition of “parent” as “a parent or guardian, a person acting as a parent of a learner” (such as a grandparent, step-parent with whom a learner lives, as well as persons who are legally responsible for a learner’s welfare), there may be no need to appoint a surrogate. However, when such individuals have no desire or are unable to become involved in the education decision making process, a qualified surrogate will be appointed through UVSE. The guidelines for surrogate parent are:

- (a) *If there is a reason to suspect that the learner is in need of a surrogate parent, the local school district must make a written inquiry to the adult in charge of the learner’s place of residence, as well as to the parents at their last known address.*
- (b) *If efforts indicate that the parents are not available, a request for the appointment of a surrogate is filed by the local school district administrator or designee or other interested parties with UVSE.*
- (c) *Once the assignment is made, a surrogate will be responsible for representing the learner just as the parents would through the complete educational decision making process.*

Termination of assignment of surrogate parent may be made by the learner, the surrogate, or the local school district involved. Such a request should be made in writing and submitted to UVSE. Supportive documentation or other relevant evidence for such action should be included in cases where a party, other than the surrogate parent, has requested a change or termination of the assignment. The Director of UVSE or his/her designee should determine whether or not a change in or termination of assignment is warranted.

The assigned surrogate parent enjoys the same rights throughout the educational decision making process including access to records, as do natural parents. The rights include but are not limited to:

- (a) *Prior notice whenever a local school district proposes to initiate or change the educational program of the learner.*
- (b) *To challenge the accuracy of information in the learner's record.*
- (c) *To participate fully in the planning of the learner's individualized education program.*
- (d) *To question the appropriateness of the learner's educational programming and placement.*
- (e) *To all procedural safeguards, including the right to present evidence, confront, cross-examine, and compel the attendance of a witness during a due process hearing.*
- (f) *To full knowledge about special education programs for the learner.*

The selection and qualification of a surrogate parent will include but are not limited to the following:

- (a) *Shall be an adult and legal citizen of the United States.*
- (b) *Shall not be an employee of the State Education Agency, Local Education Agency, Institution, or Private School involved in the education of the learner.*
- (c) *Shall have no vested interest that conflicts with the learner's educational interest.*
- (d) *Shall be committed to the learner's educational interest.*

J. Transfer of Parental Rights at Age of Majority (§ 300.520)

1. Policy

When a student with a disability reaches the age of 18 years (N.D.C.C. § 14-10-01) (except for a student with a disability who has been determined to be incompetent under North Dakota law), the school district shall provide any notice required by IDEA Part B to both the individual and the parents; and all other rights accorded to parents under Part B of IDEA transfer to the student; and all rights accorded to parents under Part B of IDEA transfer to students who are incarcerated in an adult or juvenile North Dakota or local correctional institution.

Procedures regarding transfer of rights are included in *Guidelines: Procedural Safeguards: Prior Written Notice and Parental Consent Procedures (2007)*, which is disseminated to all special education personnel.

2. Regulations

Whenever rights are transferred under this part, the school district shall notify the individual and the parents of the transfer of rights.

IX. DISCIPLINE PROCEDURES (20 U.S.C. 20 1415 (k); 34 CFR 300.530-300.536)

The school district adheres to policies and all requirements related to discipline as set forth in *Guidelines: Individualized Education Program Planning Process (2007)*, and Policy Paper No. 2, Discipline Regulations for Students with Disabilities (2007) which was disseminated to all special education personnel and school administrators.

Suspension and Expulsion

Students are expected to conduct themselves in a manner suitable to their age and grade. Students disobedient or disruptive of the educational process are subject to corrective discipline.

The School Board hereby delegates to the Superintendent and each principal the authority to deal with disciplinary problems in his/her school.

*A principal or the Superintendent may suspend a student for up to ten (10) consecutive days or recommend expulsion of a student and shall allow the student's parent or representative an opportunity to be heard prior to the commencement of the suspension. The Superintendent **[for a principal]** may expel a student for the remainder of the current school year after providing notice and a hearing as set forth in FHDA-R. Conduct, including but not limited to the following, exhibited while on school grounds, during a school-sponsored activity, or during a school-related activity is subject to suspension or expulsion:*

- 1. Causing or attempting to cause damage to school property or stealing or attempting to steal school property of value.*
- 2. Causing or attempting to cause damage to private property or stealing or attempting to steal private property.*
- 3. Causing or attempting to cause physical injury to another person except in self-defense.*
- 4. Possessing or transmitting any firearms, knives, explosives, or other dangerous objects.*
- 5. Possessing, using, transmitting, or being under the influence of any narcotic drugs, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind.*
- 6. Disobedience or defiance of proper authority.*
- 7. Behavior which is detrimental to the welfare, safety, or morals of other students.*
- 8. Truancy.*
- 9. Offensive and vulgar language, whether or not it is obscene, defamatory, or insightful to violence, where it is disruptive of the educational process.*
- 10. Any student behavior which is detrimental or disruptive to the educational process, as determined by the principal.*

Enrollment of Suspended Students

[Any student who has been suspended from a school of this District is not eligible to attend any other school within the District until eligible to return to his or her regular school.] Any student who has been suspended from another District will not be permitted to enroll in the District until eligible to re-enroll in his or her former district or until the Board or the Superintendent has reviewed the prior suspension and determines that the suspension was illegal or improperly given.

Suspension or Expulsion of Students with Disabilities

Suspension or expulsion of students with disabilities must comply with the

provisions of the Individuals with Disabilities Education Act.

The District is not required to refer for special education assessment and evaluation a regular education student who has been suspended for violation of school rules and district policy to determine if such a student might have a disability. A suspended regular education student is not entitled to reinstatement to classroom and campus privileges pending any assessment and evaluation which is to be made during the term of the student's suspension.

Copies of these rules shall be posted in a prominent place in each school, and may be distributed to each student.

*Legal Ref: 20 U.S.C. 1400 et seq Individual with Disabilities Education Act
NDCC 15.1-09-33(17) School Board - Powers
NDCC 15.1-19-09 Students - Suspension and Expulsion - Rules
NDCC 15.1-19-10 Possession of a Weapon - Policy - Expulsion from
School*

Change of Placement for Disciplinary Removals (§ 300.536)

For purposes of removals of a child with a disability from the child's current educational placement under §§300.530-300.535, a change of placement occurs

- if the removal is for more than 10 consecutive school days; or
- the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year; because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. The school district determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

Authority of School Personnel (§ 300.530)

1. *Case-by-case determination.* School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.
2. School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children 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 under § 300.536). After a child with a disability has been removed from his or her current placement for 10 school

- days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under item 4.
3. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to item 7, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in item 4.
 4.
 - (i) A child with a disability who is removed from the child's current placement pursuant to items 3 or 9 must continue to receive educational services, as provided in § 300.101(a) [free appropriate public education], so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.
 - (ii) The services required by this item may be provided in an interim alternative educational setting.
 - (iii) A school district is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.
 - (iv) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in § 300.101(a) [free appropriate public education], so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.
 - (v) If the removal is a change of placement under § 300.536, the child's IEP team determines appropriate services under item 4(a).
 5. For purposes of this section (IX Discipline Procedures), the following definitions apply.
 - (i) *Controlled substance* means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).
 - (ii) *Illegal drug* means a controlled substance; but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

- (iii) *Serious bodily injury* has the meaning given the term “serious bodily injury” under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.
- (iv) *Weapon* has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Determination of Setting (§ 300.531)

- 6. The child’s IEP team determines the interim alternative education setting for services under items 3, 4, and 9.

Manifestation Determination Review (§ 300.530 (e))

- 7. (i) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the child’s IEP team (as determined by the parent and the school district) must review all relevant information in the student’s file, including the child’s IEP, any teacher observations, and any relevant information provided by the parents to determine—
 - (a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child’s disability; or
 - (b) If the conduct in question was the direct result of the school district’s failure to implement the IEP.
- (ii) The conduct must be determined to be a manifestation of the child’s disability if the school district, the parent, and relevant members of the child’s IEP team determine that a condition in either item 7(a)(i) or item 7(a)(ii) was met.
- (iii) If the school district, the parent, and relevant members of the child’s IEP team determine the conduct was a direct result of the school district failure to implement the IEP, the school district must take immediate steps to remedy those deficiencies.
- 8. If the school district, the parent, and relevant members of the IEP team make the determination that the conduct was a manifestation of the child’s disability, the IEP team must either
 - (i) conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
 - (ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
 - (iii) Except as provided in item 9, return the child to the placement from which the child was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavioral intervention plan.

9. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child—
 - (i) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a state education agency or an L school district
 - (ii) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a state education agency or an school district; or
 - (iii) As inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state education agency or an school district
10. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision, and provide the parents the procedural safeguards notice described in § 300.504.

Parent Appeal (§ 300.532)

11. The parent of a child with a disability who disagrees with any decision regarding placement under items 3 and 9 or the manifestation determination under item 7 or an school district that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to §§ 300.507 and 300.508(a) and (b).
 - (i) A hearing officer under § 300.511 hears, and makes a determination regarding an appeal under item 11. In making the determination, the hearing officer may—
 - (ii) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of § 300.530 or that the child's behavior was a manifestation of the child's disability; or
 - (iii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.
13. The appeal procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.
14. Whenever a hearing is requested under item 11, the parents or the school district involved in the dispute must have an opportunity for an impartial due process hearing. The SEA or school district is responsible for arranging the

expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing. Unless the parents and school district agree in writing to waive the resolution meeting or agree to use the mediation process described in § 300.506, a resolution meeting must occur within seven days of receiving notice of the due process complaint; and the due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint. The decisions on expedited due process hearings are appealable consistent with § 300.514.

Placement During Appeals (§ 300.533)

When an appeal has been made by either the parent or the school district, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period of the removal, whichever occurs first, unless the parent and the state education agency or school district agree otherwise.

Protections for Children Not Yet Eligible for Special Education and Related Services (§ 300.534)

15. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct may assert any of the protections provided for in this part if the school district had knowledge (as determined in accordance with item 17) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.
16. A school district must be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred,
 - (i) the parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or a teacher of the child, that the child is in need of special education and related services;
 - (ii) the parent of the child has requested an evaluation of the child pursuant to §§300.300-300.311; or
 - (iii) the teacher of the child, or other personnel of the local educational agency, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.
17. A school district would not be deemed to have knowledge under item 16 if the parent of the child has not allowed an evaluation of the child, or has refused services to the child, or if the child has been evaluated in accordance with §§ 300.300 through 300.311 and determined not to be a child with a disability.
18. If a school district does not have knowledge that a child is a child with a disability (in accordance with items 16 and 17) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with items 19, 20, and 21 of this section.

19. If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under §300.530, the evaluation must be conducted in an expedited manner.
20. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.
21. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district and information provided by the parents, the school district must provide special education and related services in accordance with §§300.530 through 300.536 and section 612(a)(1)(A) of IDEA.

Referral to and Action by Law Enforcement and Judicial Authorities (§ 300.535)

22. Nothing in this part prohibits a school district from reporting a crime committed by a child with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.
23. A school district reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

X. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION (20 U.S.C. 1412(a)(8), 1417(c); §300.500, 300.610-300.627)

A. Policy

The school district affirms the policy of confidentiality of any personally identifiable information collected, used, or maintained under IDEA Part B. The school district further affirms its adherence to the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) which protects students' and parents' rights to privacy in and access to educational records.

See Appendix Section 4 – Record Locator Instructions and Forms 4.1 – 4.2 Make our own

B. Regulations

Notice to Parents (§ 300.612)

1. The school district ensures that notice as required below in item 1(e) is adequate to fully inform parents about the requirements of confidentiality of personally identifiable information, including

- (i) a description of the extent that the notice is given in the native languages of the various population groups in the unit;
- (ii) a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the school intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- (iii) a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
- (iv) a description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in 34 CFR part 99.
- (v) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the unit of the activity.

See Appendix Section 4 – Release of Information Instructions and Forms 4.3-4.5 Tienet form

Access Rights (§ 300.613)

- 2. Each school district must permit parents (or young adults with disabilities for whom transfer of rights has occurred at age 18) to inspect and review any education records relating to their children that are collected, maintained, or used by the school district under this part. The school district must comply with a request without unnecessary delay and before any meeting regarding an individualized education program, or any hearing pursuant to §300.507 and §§300.530-300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.
- 3. The parents' right to inspect and review education records related to the identification, evaluation and placement of a child and the provision of FAPE under this section includes:
 - (i) the right to a response from the school district to reasonable requests for explanations and interpretations of the records;
 - (ii) the right to request that the school district provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (iii) the right to have a representative of the parent inspect and review the records.
- 4. A school district may presume that the parent has authority to inspect and review records relating to his or her child unless the school district has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

Records of Parties Obtaining Access (Record of Inspection) (§ 300.614)

5. Each school district must keep a record of parties obtaining access to education records collected, maintained, or used under IDEA Part B (except access by parents and authorized employees of the school district), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

See Appendix Section 4 – Record of Inspection of Student Records Instructions and Forms 4.6-4.7

Records on More than One Child (§ 300.615)

6. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of Types and Location of Information (Record Locator) (§ 300.616)

7. Each school district must provide parents, on request, a list of the types and locations of education records collected, maintained, or used by the agency.

See Appendix Section 4 – Special Education Student File Label and Instructions 4.8-4.9 – what is in the file

Fees (§ 300.617)

8. A school district may charge a fee for copies of records that are made for parents under this section if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. A school district may not charge a fee to search for or to retrieve information under this section.

Amendment of Records at Parent’s Request (§ 300.618)

9. A parent who believes that information in education records collected, maintained or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child may request the school district that maintains the information to amend the records.
10. If the school district receives a request to amend records, the agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the school district decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.

Opportunity for a Hearing (§ 300. 619)

11. The school district must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

Result of Hearing (§ 300. 620)

12. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.
13. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the school district.
14. Any explanation placed in the records of the child under this section must:
 - (i) be maintained by the school district as part of the records of the child as long as the record or contested portion is maintained by the school district; and
 - (ii) if the records of the child or the contested portion is disclosed by the school district to any party, the explanation must also be disclosed to the party.

Hearing Procedures (§ 300. 621)

15. A hearing held under § 300.619 must be conducted according to the procedures under section 34 CFR 99.22 of the Family Educational Rights and Privacy Act (FERPA).

Consent (§ 300.622)

16. Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies as described below, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. Except as provided in items 17 and 18, consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of IDEA Part B.
17. Parental consent, or the consent of an eligible child who has reached age 18, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with § 300.321(b)(3).
18. If a child is enrolled, or is going to enroll in a private school that is not located in the school district of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the school district where the private school is located and officials in the school district of the parent's residence.

UVSE Procedure is for case managers to use a working file to document contact with parents or outside agencies and/or to use "Events" in Tienet to document contact.

Safeguards (§ 300.623)

19. Each school district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
20. One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable information. Within the Upper Valley Special Education Unit, the following person(s) is/are assigned this responsibility; the principal of each building in the district.
21. All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under 300.123 and 34 CFR Part 99 (FERPA). Each school district must provide training to new staff members.
22. Each school district shall maintain, for public inspection, a current listing of the names and positions of those employees within the school district who may have access to personally identifiable information.

See Appendix Section 4 – Access Label 4.12 – outside of the file cabinet

Destruction of Information (§ 300.624)

23. The school district must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
24. The information which is no longer needed must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

See Appendix Section 4 – Student Special Education Records Data Removal Instructions and Forms 4.13-4.14- look at

Children's Rights (Transfer of Rights) (300.625)

25. Children for whom personally identifiable information is collected, maintained, or used under this policy are afforded rights of privacy similar to those afforded to parents previous to the child's 18th birthday, taking into consideration the age of the child and the type or severity of disability. Under the regulations for the Family Educational Rights and Privacy Act of 1974 in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18. In North Dakota, the rights of parents regarding educational records are transferred to their child at age 18 unless the parents have sought and obtained legal guardianship for that child.

APPENDIX SECTION 4 – PROCEDURAL SAFEGUARDS

- 4.1 *Record Locator Instructions*
- 4.2 *Record Locator Form*
- 4.3 *Release of Information Instructions*
- 4.4 *Release of Information Form*
- 4.5 *Record of Inspection of Student Records Instructions*
- 4.6 *Record of Inspection of Student Records Form*
- 4.7 *Special Education Student File Label Instructions and Example*
- 4.8 *Access Label*
- 4.9 *Student Special Education Records Data Removal Instructions*
- 4.10 *Parent Notice of Destruction of Records*
- 4.11 *Student Notice of Destruction of Records*
- 4.12 *Cumulative Record of Special Education*

4.1 Record Locator Purpose

- A. *Purpose: To indicate when the student's records, or a portion of these records, are stored in more than one location.*
- B. *Used by: Case managers and school social workers.*
- C. *Copies to: There should be one copy in the front of every folder (cumulative or permanent and special education) wherever records are located, when records are kept in more than one site. Staff's working files are exempt from this process.*

4.2 Record Locator Form



Record Locator

Student Name: _____

Complete Special Education Record of this student can be found in the following locations:

Upper Valley Special Education Office

Box 272
516 Cooper Avenue
Grafton, ND 58237

TIENET - <https://mw.specialeducation.powerschool.com>

A software program used by North Dakota State Special Education to create an electronic record.

Local School

Local School District

Street / Mailing Address

City, State, Zip Code

Other

4.3 Release of Information

NOTE: Some individual school districts have their own Release of Information policy and forms. In such cases, that policy should be followed in lieu of UVSE policy and form.

- A. Purpose: To document parental/guardian permission to release information pertaining to their child to another agency, school district, etc.*
- B. Used by: All special education personnel.*
- C. Prerequisite to: Forwarding any information regarding a student to another agency, school district, etc.*
- D. Copies to: The original should be sent to the district or agency from whom information is being requested. Additional copies to: Student's cumulative/special education folder, parent/guardian.*

4.4 Release of Information – Tienet Form

1/5/2017

Release of Information

Release of Information	
I hereby authorize the mutual exchange of information regarding:	
Student Name:	DOB:
Address:	Date:
This information will be shared between and:	
A. The following information is REQUESTED by	
<input type="checkbox"/> * Evaluations/Assessments: Please Specify -	
<input type="checkbox"/> * Student Education Records: Please Specify -	
<input type="checkbox"/> * Medical Reports: Please Specify -	
<input type="checkbox"/> * Other: Please Specify -	
*Notice: Unless otherwise noted, this information will be used for educational purposes and/or determining eligibility services, and will be placed in the student's school file. (Other uses:)	
B. The following information will be SENT/DISCLOSED by (Be Specific)	
<input type="checkbox"/> * Student Education Records: Please Specify -	
<input type="checkbox"/> * Individualized Education Program (IEP)	
<input type="checkbox"/> * Evaluations/Assessments: Please Specify -	
<input type="checkbox"/> * Other: Please Specify -	
*Purpose of this request for records (REQUIRED):	
Please forward requested information to:	
This consent for the mutual exchange of information will remain in effect until _____ unless specifically revoked by written notice to the agency sending the records. Any information disclosed prior to written revocation of this consent shall not be a breach of confidentiality. This consent will allow the above parties to exchange information related to the records above through US mail, and verbal conversation. I also consent to exchanging this information through fax or e-mail unless this box is checked: <input type="checkbox"/> . (I understand that fax and e-mail transmissions may not be secure).	
I CONSENT to the exchange of information described above:	
(Signature of Parent/Guardian/Eligible Student)	(Date)
Parent signature obtained <input type="checkbox"/>	

4.5 Record of Inspection of Student Records

- A. *Purpose: To identify when and why authorized individuals have reviewed the contents of the student's special education folder.*
- B. *Used by: All authorized personnel. (See limited access sticker on file cabinet.)*
- C. *Prerequisite to: Review of the special education folder.*
- D. *Copies to: There are no copies. The original is placed in the front of each special education folder.*

4.6 Special Education Student File Label

- A. *Purpose: To annually identify the special education services received by the student and the staff member(s) providing those services.*
- B. *Used by: All special education personnel*
- C. *Prerequisite to: Does not apply*
- D. *Copies to: Apply the sticker to outside front of the student's special education folder.*



4.7 Access Label

. *Purpose: To identify files that contain special education records as limited access files, to specify who has access to the records, and to identify a record custodian.*

A. *Used by: All special education personnel, building principals, record custodians.*

B. *Location: The access label must be placed in clear view on any file cabinet that contains special education records.*

NOTE: *Specific names should not be entered. The name of the building/school district should be entered in the first three lines. The position held by the Record Custodian should be entered.*

THIS IS A LIMITED ACCESS FILE	
Some cumulative files contain special education records. Special education records are limited access records. The following individuals have access to special education records:	
Lake Region Special Education Staff (including teacher, physical therapist, occupational therapist, speech therapist, psychologist, program coordinator, director, social worker)	
Regular Education Instructors _____	_____ building
(includes school social worker)	
School District Administrators _____	_____ school district
School Secretary _____	_____ Building
Parent/Eligible Student over the Age of 18	
State/Federal Education Agency Personnel	
Permission to access this file by persons not listed above must be obtained from: _____, Record Custodian	

4.8 Student Special Education Records Data Removal Instructions

Purpose: To provide the parent/guardian with sufficient prior notice that specific contents of their child's special education folder will be removed and destroyed. This gives the parent/guardian an opportunity to receive a copy of this information before it is destroyed. It is suggested that parent/ guardian be given a 30-day timeline in which to respond to this notice.

NOTE: 1) Inactive Records: *The contents of a student's special education record MAY be destroyed after three years from the date any services were last provided, and the contents SHALL be destroyed after five years from the date any special education services were last provided. However, in order to have documentation that these students did receive special education services, the unit will maintain a copy of:*

The Unit will

- a) Send home a Notice of Destruction Letter to the parent and/or student, if educational rights have been transferred*
 - b) Maintain a Level 1 Form with the Last Date of Special Services Provided and a complete record of Special Education services*
 - c) These two pieces of data should then be placed with the student's other cumulative data that are kept in perpetuity.*
-
- A) Used by: Building administrator in conjunction with special education personnel.*
 - B) Prerequisite to: Removal and destruction of data in a student's special education folder.*
 - C) Copies to: The original should be sent to the parent/guardian. Additional copies for student's cumulative/special education folder and the building administrator.*
 - D) Date recorded is the date of the form that will be removed.*

NOTE: *For students age 19 and older, see UVSE policy on Family Rights and Privacy Act.*

Graduating kids: send a letter home (get that) - after 30 days they are marked in their inactive files and write down the date they are destroyed. After 3 years they are destroyed at the beginning of the school year. Level 1 form (from Tracey)

Exited kids: send home a letter to parents after they have exited. – after 30 days they are marked as inactive and a date written down for destruction. After 3 years they are destroyed.

4.9 Parent Notice of Destruction of Records



Upper Valley Special Education Unit
PO Box 272
Grafton, ND 58237-0272
(701) 352-2574

Insert Date:

Re:

Dear Parent:

Your child's special education records are on file with the Upper Valley Special Education Unit. These records may contain special education information such as referrals, IEPs (Individual Education Plan), progress reports, or evaluations.

Please contact the Upper Valley Special Education Unit, PO Box 272, Grafton, ND 58237 (352-2574) within 30 days of the date of this letter if you would like to obtain these records. After the 30 days, special education records will be destroyed.

Information which includes the student's name, address, phone number, referral data, services received, last service and attendance date, grade, graduation, and transfer information will be maintained without time limitations.

Agencies, post-secondary schools, etc. may request special education information from you in the future; therefore, obtaining these records may be beneficial.

Sincerely,

Tracey Burns
Upper Valley Special Education

4.10 Student Notice of Destruction of Records



Upper Valley Special Education Unit
PO Box 272
Grafton, ND 58237-0272
(701) 352-2574

Insert Date:

Name: _____

This letter is to inform you that special education records are on file with the Upper Valley Special Education Unit.

Our policy is to inform you that your special education file is available to you. This file may contain information such as referrals, IEPs (Individual Education Plan), progress reports, or evaluations that have accumulated during your school enrollment.

Please notify the Upper Valley Special Education Unit, PO Box 272, Grafton, ND 58237 (352-2574) within 30 days of the date of this letter if you would like to obtain these records. After the 30 days, special education records will be destroyed.

Only information which includes the student's name, address, phone number, referral date, services received, last service and attendance date, grade, graduation, and transfer information will be maintained without time limitations.

Agencies, post-secondary schools, etc. may request special education information from you in the future; therefore, obtaining these records may be beneficial.

Sincerely,

Tracey Burns
Upper Valley Special Education

4.11 Cumulative Record of Special Education



Upper Valley Special Education Unit
PO Box 272
Grafton, ND 58237-0272
(701) 352-2574

Cumulative Record of Special Education

Name: _____ DOB: _____
Last **First** **Middle**

Parent's Name: _____

Address: _____ **Phone:** _____

Reason for Referral/Date of Referral: _____

<u>Services Received</u>	<u>Year</u>
_____	_____
_____	_____
_____	_____
_____	_____

Last Date of Special Services or Contact or Last Entry on File: _____

Last School Attended (According to Special Services File): _____
Grade: _____

Did They Graduate: Yes _____ No _____ Don't Know _____
Year _____ **School** _____

If Transferred, where to and year: _____

Comments:

SECTION 5: MONITORING PROCEDURES

XI. Upper Valley SPECIAL EDUCATION UNIT INTERNAL MONITORING PROCEDURES (34 CFR §§ 300.200, 300.201, 300.600, 300.601)

A. Policy

The Upper Valley Special Education Unit is responsible for internally monitoring the implementation of its procedures to ensure consistent compliance with applicable law, address issues of quality of services, and develop and carry out strategies that will result in improved outcomes for students with disabilities.

B. Procedures

Both federal and state law contemplate that a school district will conduct internal monitoring of its provision of special education and related services. Internal monitoring may also be conducted at the special education unit level; however, all data submitted must be at the school district level. North Dakota law at N.D.C.C. § 15.1-32-02 requires the setting of standards that will apply to school districts receiving state special education funding. IDEA requires adherence to specific federal regulations to assure that free and appropriate services are made available to all children with disabilities. Monitoring procedures have evolved toward an emphasis on broader accountability issues aligned with the total educational accountability system.

The NDDPI has published guidance on monitoring pursuant to IDEA, reflecting the 2004 reauthorization of IDEA and the influence of the Government Performance and Results Act of 1993, in the document *ND Special Education Local IDEA Internal Monitoring Procedures 2006-2007* (NDDPI January 31, 2007) (“Internal Monitoring Procedures”). As explained in this document, with the 2004 reauthorization of IDEA, special education was aligned with the No Child Left Behind Act of 2001. One result of this alignment is an increased expectation for schools to focus on results or outcomes for students. IDEA 04 added a new accountability requirement that each state must have an approved special education state performance plan (SPP), which parallels the accountability requirements for general education previously identified in the No Child Left Behind Act of 2001 (20 U.S.C. § 6301 et seq.). Each state must report annually to the U.S. Department of Education on its performance under the SPP, in a document entitled “Annual Performance Report” (APR).

The primary focus of the state’s monitoring activities, which in turn shape the school district and special education unit monitoring activities, must be on:

1. Improving educational results and functional outcomes for all children with disabilities; and
2. Ensuring that school districts meet the program requirements for IDEA Part B, with a particular emphasis on those requirements that are most closely related

to improving educational results for children with disabilities. Those requirements have been identified by the U.S. Department of Education as:

- (i) Provision of FAPE in the least restrictive environment;
- (ii) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services;
- (iii) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

The *Internal Monitoring Procedures* document explains that NDDPI is in the process of developing a focused monitoring model as a part of a consolidated monitoring approach that places its primary emphasis on student outcomes. Consolidated monitoring is intended to merge quality assurance for multiple federal education laws, including IDEA and NCLB. Consolidated monitoring will improve shared data collection, data analysis, and reporting at the state, district, and building levels. Local data will be reported to the NDDPI on an annual basis. The NDDPI then will verify the validity of local internal monitoring data and will ensure that local school districts correct identified noncompliance within one year.

Additional information on requirements for administering programs supported by federal funds is available in the document, *General Requirements for Federal Programs* (NDDPI February 2004), accessible at the NDDPI website at www.dpi.state.nd.us/grants/require.pdf. This document covers areas such as records retention, allowable costs, property management, and other aspects of program administration.

The obligation to conduct internal monitoring for proper administration of a program supported by federal funds extends to parentally-placed private school students with disabilities who receive special education and related services from the school district and students who are placed by the school district in a private school or facility.

The Upper Valley Special Education Unit assures that it monitors compliance with the requirements of IDEA Part B through the procedures set forth in *ND Special Education Local IDEA Revised Internal Monitoring Procedures 2006-2007* (NDDPI March 7, 2007).

1. Once a month, case managers are required to submit current caseload monitoring from and UVSE Special Education Filing Checklist form each student that paperwork was completed on that month.
2. The administrative assistance and coordinator review paperwork, provide feedback, check for compliance, and monitor corrections.
3. Coordinators review for compliance and provide feedback for open enrolled students and transition IEPs using North Dakota Internal Monitoring Transition Requirement Checklist: Indicator 13.

The results of internal monitoring are the basis for professional development provided to UVSE staff. This assures improvement of educational results and functional outcomes for all children with disabilities.

The Upper Valley Special Education Unit further assures that it complies with federal and state policy as stated in *General Requirements for Federal Programs* (NDDPI February 2004) and any successor to that document. The Upper Valley Special Education Unit makes internal monitoring records available to the NDDPI for review at the agency or institution site.

XII. PERFORMANCE GOALS AND INDICATORS (20 U.S.C. 1412(a)(15); 34 CFR §§ 300.157; 300.211)

IDEA 2004 established a requirement that all states develop and submit to the U.S. Department of Education, Office of Special Education Programs (OSEP) a performance plan designed to improve the educational and functional outcomes for children with disabilities. Pursuant to §300.157, the state performance plan (SPP) establishes goals for the performance of children with disabilities, establishes performance indicators that are used to assess progress toward achieving the goals, and provides for performance reporting. The state performance plan must encompass baseline data (where available), projected targets, and activities to achieve those targets. The state is required to submit an annual performance report (APR) in the years following the submission of the performance plan to inform OSEP and the public on the progress toward meeting those goals. The SPP contains 20 performance indicators. The NDDPI collects data on the performance of local school districts on these indicators:

Indicator 1: Graduation Rate: Percent of youth with IEPs graduating from high school compared to percent of youth graduating in ND.

Indicator 2: Dropout Rate: Percent of youth with IEPs dropping out of high school compared to the percent of all youth in ND dropping out of high school.

Indicator 3: Participation and Performance on ND Statewide Assessments and the ND Alternate Assessment: Percent of districts meeting state's AYP [adequate yearly progress] objectives for progress for disability subgroup.

Indicator 4: Rates of Suspension and Expulsion: Percent of districts identified as having a significant discrepancy in the rates of suspension and expulsion for children with disabilities.

Indicator 5: School Age LRE: Percent of children with IEPs placed in regular classrooms, separate classrooms, or separate facilities.

Indicator 6: Preschool LRE: Percent of preschool children who receive services in settings with typically developing peers.

Indicator 7: Preschool Outcomes: Social/emotional skills, use of knowledge and skills, and use of appropriate behaviors.

Indicator 8: Parent Involvement: As a means of improving results for children

with disabilities.

Indicator 9: Racial/Ethnic Disproportionality: Percent of districts with disproportionate representation of racial and ethnic groups in special education.

Indicator 10: Racial/Ethnic Disproportionality by Disability: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories.

Indicator 11: Evaluation Timelines: Evaluation completed and eligibility determined within 60 days.

Indicator 12: Preschool Transition: Percent of children eligible for services who have an IEP developed and implemented by their third birthday.

Indicator 13: Secondary Transition: IEPs that include coordinated, measurable, annual IEP goals that reasonably enable the student to meet post-secondary goals.

Indicator 14: Secondary Outcomes: Percent of youth who had IEPs who are employed, enrolled in postsecondary school, or both, within one year of leaving high school.

Indicator 15: Resolution Sessions: Percent of hearing requests resolved through resolution agreement

Indicator 16: Mediation: Percent of mediations resulting in agreements

Indicator 17: State Systemic Improvement Plan: Increase graduation rates of students on IEPs for Emotional Disturbance

Consistent with the requirements of §300.211, the Upper Valley Special Education Unit assures that its member school districts will comply with NDDPI information requests and will conduct required data collection and submission activities related to performance goals and indicators in a timely and accurate manner.

XIII. PARTICIPATION IN ASSESSMENTS (20 U.S.C. 1412(a)(16); §300.320(a)(6))

Participation in Assessments (300.320(a)(6))

A. Policy

Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations in administration, if necessary. If a child's IEP team determines that a child must take an alternate assessment of student achievement, the child's IEP must include a statement of why the child cannot participate in the regular assessment; and why the particular alternate assessment selected is appropriate for the child.

B. Procedures

- A. The school district utilizes guidance documents developed or disseminated by the NDDPI to ensure compliance with regulations relating to participation in assessments and to instruct school personnel on appropriate assessment accommodations for children with disabilities. The *Test Coordinators Manual*, developed by NDDPI personnel responsible for the statewide assessment program, is distributed to schools annually to provide instruction relating to assessment protocol, including accommodations for students with disabilities. The *Test Coordinators Manual* includes an appendix describing policy and acceptable practice of assessment accommodations for students

with disabilities. District and unit personnel must use only the current *Test Coordinators Manual*, to ensure that annual changes in the manual are implemented. The NDDPI has developed training modules addressing a variety of topics related to the state assessment system, available at the NDDPI website at www.dpi.state.nd.us/testing/assess/index.shtm. The NDDPI also publishes an informational pamphlet for parents and educators, “Students with Disabilities and North Dakota State Assessments” (revised September 2006).

The school district assures that it conducts all assessments, general and alternate, in compliance with federal and state standards, and that it will implement ongoing NDDPI guidance on assessment accommodations as it is provided by the NDDPI.

XIV. METHODS OF ENSURING SERVICES - INTERAGENCY AGREEMENTS (20 U.S.C. 1412(a)(12)(A), (B) and (C); 1401 (8); 34 CFR 300.154)

A. Policy

The Upper Valley Special Education Unit collaborates with appropriate state and local agencies to ensure services that are needed to provide FAPE are delivered to individuals with disabilities.

B. Interagency Agreements and Memorandum of Agreements

The Upper Valley Special Education Unit has in place Interagency Agreements (IAAs) with the following public agencies:

Tri Valley Head Start
North Dakota School for the Deaf
North Dakota Vision Services

C. Other Working Relationships with Community Agencies §300.154(e)

In addition to Interagency Agreements, the Upper Valley Special Education Unit has informal working relationships (i.e., no written formal relationship) with the following agencies:

Area preschools
County social services
Development Disabilities
Division of Juvenile Court
North Dakota Job Service
P & A – advocacy for students
PATH
Red River Valley Education Cooperative
Region IV Transition councils- develop transition programs for students 16 and above
Vocational Rehabilitation

D. Use of Private Insurance (§ 300.154(e) through (h))

1. With regard to children with disabilities who are covered by public insurance:
 - (i) a school district may use the Medicaid or other public insurance or benefits programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph b(ii) of this section.
 - (ii) with regard to services required to provide FAPE to an eligible child under this part, the school district
 - (a) may not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of IDEA;
 - (b) may not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph 3 of this section, may pay the cost that the parent otherwise would be required to pay; and
 - (c) may not use a child's benefits under a public benefits or insurance program if that use would
 - (1) decrease available lifetime coverage or any other insured benefit;
 - (2) result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;
 - (3) increase premiums or lead to the discontinuation of benefits or insurance; or
 - (4) risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
 - (d) must obtain parental consent, consistent with § 300.9, each time that access to public benefits or insurance is sought; and must notify parents that the parents' refusal to allow access to their public benefits or insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.
2. With regard to services required to provide FAPE to an eligible child with a disability who is covered by private insurance, a school district may access a parent's private insurance proceeds only if the parent provides informed consent consistent with §300.309. Each time the school district proposes to access the parent's private insurance proceeds, it must obtain parent consent, and inform the parents that their refusal to permit the school district to access their private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to the parents.
3. If a school district is unable to obtain parental consent to use the parent's private insurance, or public benefits or insurance when the parent would incur a cost for a specified service required under this part, to ensure FAPE the school district may use its Part B funds to pay for the service. To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parent would incur a cost, the school district may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's benefits or insurance (e.g., the deductible or co-pay amounts).

4. Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25. If a school district spends reimbursements from federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in §§300.163 and 300.203.
5. Nothing in this part should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj or any other public insurance program.

XV. SUSPENSION AND EXPULSION RATES (20 U.S.C.1412(a)(22); 34 CFR § 300.170)

A. Policy

The school district assures that it regularly reviews suspension and expulsion rates of children with disabilities.

B. Procedures § 300.170

1. The school district examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities compared to the rates for nondisabled children in the school district.
2. If the discrepancies described in item 1 are occurring, the school district reviews and, if appropriate, revises its policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the act.

XVI. ACCESS TO INSTRUCTIONAL MATERIALS (20 U.S.C. § 1412(a)(23); 34 CFR § 300.172)

A. Policy

IDEA 04 requires states to address the critical difficulty in obtaining accessible textbooks for students with disabilities by adopting a new file format, the National Instructional Materials Accessibility Standard (NIMAS). North Dakota has chosen to adopt the new file format, for the purpose of providing instructional materials to blind persons or other persons with print disabilities in a timely manner.

The school district assures that it takes all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

B. Procedures

The NDDPI has published guidance for the implementation of the NIMAS and coordination with the National Instructional Materials Access Center (NIMAC) in

the document, *Requirements for K-12 Textbook Accessibility under the Individuals with Disabilities Education Improvement Act of 2004* (NDDPI – Office of Special Education, November 30, 2006) (“Requirements”). The Requirements document specifies duties of school districts and special education units, such as the incorporation of appropriate language in contracts or purchase orders that require publishers to submit NIMAS-conformant files to the NIMAC, or provide assurances that they have already done so, for a specific title and version that is to be purchased. The school district assures that it will implement the requirement to provide instructional materials in accessible formats in timely fashion consistent with federal and North Dakota requirements.

XVII. PROHIBITION ON MANDATORY MEDICATION (20 U.S.C. § 1412(a)(25), 34 CFR § 300.174)

The Upper Valley Special Education Unit assures that it complies with federal requirements prohibiting unit and school district personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under § § 300.300 through 300.311, or receiving services under IDEA Part B. The Upper Valley Special Education Unit recognizes that the prohibition may not be construed as prohibiting teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student’s academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under § 300.111 (related to child find).

APPENDIX SECTION 5 – MONITORING PROCEDURES

- 5.1 UVSE Caseload Monitoring Form***
- 5.2 UV Special Education Filing Checklist – Ages 3-5***
- 5.3 UV Special Education Filing Checklist – Ages 6-15***
- 5.4 UV Special Education Filing Checklist – Transition Ages 16-21***
- 5.5 ND Internal Monitoring Transition Requirement Checklist: Indicator 13***

5.2 *UV Special Education Filing Checklist – Ages 3-5*

UPPER VALLEY SPECIAL EDUCATION FILING CHECKLIST
PRESCHOOL IEP

Revised 10/16

Student Name: _____ Case Manager: _____ School: _____ Home district: _____

Re: Transfer Student ____ Re: Annual IEP ____ Initial IEP ____ Revised IEP ____

	Attached	Office Check	Attached
Previous School's IEP	_____	_____	_____ Notice of Meeting
Behavior Plan (if required)	_____	_____	_____ IEP
Notice of Meeting	_____	_____	_____ Prior Written Notice of Sped Action
UVSE IEP	_____	_____	_____ Meeting Notes
Excusal Notice (if required)	_____	_____	_____ Excusal Notice (if required)
Prior Written Notice of Sped	_____	_____	_____ Behavior Plan (if required)
Meeting Notes	_____	_____	_____ Early Childhood Outcomes
Current IWAR	_____	_____	_____ Consent for Placement
Early Childhood Outcomes	_____	_____	
Consent for Placement	_____	_____	

Re: Evaluation:

Tested not placed ____ Tested and Placed ____ 3 Year eval services are continuing ____

3 Year eval dismissed from special education ____ *Additional evaluation ____

	Attached	Office Check
BLST/TAT/RTI process (initial assessment only)	_____	_____
Notice of Meeting	_____	_____
Student Profile	_____	_____
Assessment Plan	_____	_____ Ed/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
Consent for Eval (upload signed)	_____	_____
Meeting Notes	_____	_____
Prior Written Notice of Sped	_____	_____
Notice of Meeting	_____	_____
*IWAR (upload signed)	_____	_____
Diagnostic Reports	_____	_____ Ed/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
Meeting Notes	_____	_____
Prior Written Notice of Sped	_____	_____

Re: Infant Development Referral ____

	Attached	Office Check
Notice of 2:7 meeting	_____	_____
Meeting Notes	_____	_____
Notice of Meeting	_____	_____
Student Profile	_____	_____
Assessment Plan	_____	_____ Ed/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
Consent for Eval (upload signed)	_____	_____
Notice of 2:9 meeting	_____	_____
Diagnostic report(s)	_____	_____ Ed/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
IWAR (upload signed)	_____	_____
Prior Written Notice of Sped	_____	_____
Meeting Minutes	_____	_____

Other:

Exit Form: _____ Agency Reports _____ Release of Information _____ Other _____

* If the IWAR was not completed within 60 calendar days from the date the consent for evaluation was signed, provide the reason for the delay as this information needs to be provided to DPI.

Remember to have local school personnel enter the names and initial IEP dates of all newly placed or transfer students into the state reporting system.

5.3 *UV Special Education Filing Checklist – Ages 6-15*

UPPER VALLEY SPECIAL EDUCATION FILING CHECKLIST
6-15 IEP

Revised 10/16

Student Name: _____ Case Manager: _____ School: _____

Re: Transfer Student _____ Re: Annual IEP _____ Initial IEP _____ Revised IEP _____

	Attached	Office Check	Attached
Previous School's IEP	_____	_____	_____
Parent Notice of Meeting	_____	_____	_____
Student Notice of Meeting	_____	_____	_____
UVSE IEP	_____	_____	_____
Prior Written Notice of SpEd	_____	_____	_____
Meeting Notes	_____	_____	_____
Excusal Notice (if required)	_____	_____	_____
Behavior Plan (if required)	_____	_____	_____
Current IWAR	_____	_____	_____
Consent for Placement	_____	_____	_____

Parent Notice of Meeting
Student Notice of Meeting
IEP
Prior Written Notice of Sp Ed Action
Meeting Notes
Excusal Notice (if required)
Behavior Plan (if required)
Consent for Placement

Re: Evaluation:

Tested not placed _____ Tested and Placed _____ 3 Year eval services are continuing _____

3 Year eval dismissed from special education _____ *Additional evaluation _____

	Attached	Office Check
BLST/TAT/RTI process (initial assessment only)	_____	_____
Notice of Meeting	_____	_____
Student Profile	_____	_____
Assessment Plan	_____	_____
Consent for Eval (upload signed)	_____	_____
Meeting Notes	_____	_____
Prior Written Notice of Sped	_____	_____
Notice of Meeting	_____	_____
*IWAR (upload signed)	_____	_____
Diagnostic Reports	_____	_____
Meeting Notes	_____	_____
Prior Written Notice of Sped	_____	_____

Educ/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot

Educ/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot

Other:

Exit Form _____ Agency Reports _____ Release of Information _____ Other _____

* If the IWAR was not completed within 60 calendar days from the date the consent for evaluation was signed, provide the reason for the delay as this information needs to be provided to DPI.

Upon referral for initial testing, notify the designated STARS personnel to add student as “send to Tienet”. If student qualifies, notify STARS personnel to change student to “special education”.

5.4 UV Special Education Filing Checklist – Transition Ages 16-21

**UPPER VALLEY SPECIAL EDUCATION FILING CHECKLIST
TRANSITION IEP 16-21**

Revised 10/16

Student Name: _____ Case Manager: _____ School: _____

Re: Transfer Student _____ **Re: Annual IEP** _____ **Initial IEP** _____ **Revised IEP** _____

	Attached	Office Check	Attached	
Previous School's IEP	_____	_____	_____	Parent Notice of Meeting
Parent Notice of Meeting	_____	_____	_____	Student Notice of Meeting
Student Notice of Meeting	_____	_____	_____	IEP
UVSE IEP	_____	_____	_____	Prior Written Notice of Sp Ed Action
Prior Written Notice of SpEd	_____	_____	_____	Meeting Notes
Meeting Notes	_____	_____	_____	Excusal Notice (if required)
Excusal Notice (if required)	_____	_____	_____	Behavior Plan (if required)
Behavior Plan (if required)	_____	_____	_____	Consent for Placement
Current IWAR	_____	_____	_____	Transfer of Rights
Consent for Placement	_____	_____		

Re: Evaluation:

Tested not placed _____ Tested and Placed _____ 3 Year eval services are continuing _____

3 Year eval dismissed from special education _____ *Additional evaluation _____

	Attached	Office Check	
BLST/TAT/RTI process (initial assessment only)	_____	_____	
Notice of Meeting	_____	_____	
Student Profile	_____	_____	
Assessment Plan	_____	_____	Educ/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
Consent for Eval (upload signed)	_____	_____	
Meeting Notes	_____	_____	
Prior Written Notice of Sped	_____	_____	
Notice of Meeting	_____	_____	
*IWAR (upload signed)	_____	_____	
Diagnostic Reports	_____	_____	Educ/Sp/Cog/OT/PT/VI/HI/Hearing Screen/CAP/Emot
Meeting Notes	_____	_____	
Prior Written Notice of Sped	_____	_____	

Other:

Exit Form _____ Agency Reports _____ Release of Information _____ Other _____

Exiting Seniors:

PWN _____ Summary of Performance _____ Exit Form _____

* If the IWAR was not completed within 60 calendar days from the date the consent for evaluation was signed, provide the reason for the delay as this information needs to be provided to DPI.

Upon referral for initial testing, notify the designated STARS personnel to add student as "send to Tienet". If student qualifies, notify STARS personnel to change student to "special education".

5.5 ND Internal Monitoring Transition Requirement Checklist: Indicator 13

North Dakota Internal Monitoring Transition Requirement Checklist: Indicator 13

Revised August 2009

Percent of youth aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. [20 U. S. C.1416 (a)(3)(B)]

1. Are there appropriate measurable postsecondary goal(s) that cover education or training, employment, and, as needed, independent living?	Y N
Can the goal(s) be counted? Will the goal(s) occur <i>after</i> the student graduates from school? Based on the information available about this student, does (do) the postsecondary goal(s) seem appropriate for this student? • If <i>yes</i> to all three, then circle Y OR if a postsecondary goal(s) is <i>not</i> stated, circle N	
2. Are the postsecondary goals updated annually?	Y N
Were the postsecondary goals addressed/updated in conjunction with the development of the current IEP? • If <i>yes</i> , then circle Y OR If the postsecondary goals were <i>not</i> updated with the current IEP, circle N	
3. Is there evidence that the measurable postsecondary goals were based on age appropriate transition assessment?	Y N
Is the use of transition assessments for the postsecondary goals mentioned in the IEP or evident in the student's file? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
4. Are there transition services in the IEP that will reasonably enable the student to meet his or her postsecondary goals?	Y N
Is a type of <i>instruction, related service, community experience, or development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills, and provision of a functional vocational evaluation</i> listed in association with meeting the post-secondary goals? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
5. Do the transition services include courses of study that will reasonably enable the student to meet his or her postsecondary goals?	Y N
Do the transition services include courses of study that align with the student's postsecondary goals? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
6. Are there annual IEP goal(s) related to the student's transition services needs?	Y N
Are annual goals included in the IEP that are related to the student's transition services needs? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
7. Is there evidence that the student was invited to the IEP Team meeting where transition services were discussed?	Y N
For the current year, is there documented evidence in the IEP or cumulative folder that the student was invited to attend the IEP Team meeting? • If <i>yes</i> , then circle Y OR if <i>no</i> , then circle N	
8. If appropriate, is there evidence that a representative of any participating agency was invited to the IEP Team meeting with the prior written consent of the parent or student who has reached the age of majority?	Y N NA
For the current year, is there evidence in the IEP that representatives of any of the following agencies/services were invited to participate in the IEP development including but not limited to: <i>postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation</i> for this post-secondary goal? Was consent obtained from the parent (or student, for a student the age of majority)? • If <i>yes</i> to both, then circle Y • If <i>no</i> invitation is evident and a participating agency is likely to be responsible for providing or paying for transition services and there was consent to invite them to the IEP meeting, then circle N • If it is too early to determine if the student will need outside agency involvement, or no agency is likely to provide or pay for transition services, circle NA • If parent or individual student consent (when appropriate) was <i>not</i> provided, circle NA	
Does the IEP meet the requirements of Indicator 13? (Circle one)	
Yes (all Ys or NAs for each item (1-8) on the checklist) or No (one or more Ns circled)	

Instructions for Completing the N.D. Internal Monitoring Transition Requirement Checklist: Indicator 13

SECTION 6: FINANCIAL RECORDS

XVIII. PROHIBITION AGAINST COMMINGLING (20 U.S.C. 1412(a)(17)(B) 34 CFR 300.162(b))

The Upper Valley Special Education Unit assures that the funds under Part B of IDEA are not commingled with funds from other sources.

XIX. EXCESS COST AND NONSUPPLANTING (34 CFR §162(c); 20 U.S.C. 1401(8), 1413(a)(2)(A); 34 CFR §300.16, 300.202, Appendix A to Part 300- Excess Costs Calculation)

The Upper Valley Special Education Unit assures that funds received under IDEA Part B will be used solely for excess costs for special education and related services for students with disabilities and in no way will be used to supplant any special education costs from other sources including state and local funds.

A. Use of Amounts. (20 U.S.C. 1401(8), 1413(a)(2)(A); 34 CFR §300.16, 300.202, Appendix A to Part 300- Excess Costs Calculation; ND Admin. Code § 67-23-03-04)

1. **General.** Amounts provided to a school district under Part B of IDEA--
 - (i) Must be expended in accordance with the applicable provisions of IDEA Part B and federal and state rules implementing IDEA Part B;
 - (ii) Must be used only to pay the excess costs of providing special education and related services to children with disabilities; and
 - (iii) Must be used to supplement state, local, and other federal funds and not to supplant those funds.
2. **Definition.** The term “excess costs” means those costs that are in excess of the average annual per-student expenditure in a school district during the preceding school year for an elementary or secondary school student, as may be appropriate. Excess costs must be computed after deducting—
 - (i) Amounts received—
 - (a) Under IDEA Part B;
 - (b) Under Part A of title I of the Elementary and Secondary Education Act of 1965 (“ESEA”); or
 - (c) Under Parts A and B of title III, of the ESEA; and
 - (ii) Any state or local funds expended for programs that would qualify for assistance under any of those parts, but excluding any amounts for capital outlay or debt service. (See Appendix A to part 300 for an example of how excess costs must be calculated.)
3. **Limitation on use of Part B funds.** (1) The excess cost requirement prevents a school district from using funds provided under Part B of IDEA to pay for all of the costs directly attributable to the education of a child with a disability; however, the excess cost requirement does not prevent a school district from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability

in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or state funds are available for nondisabled children in that age range. However, the school district must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.

B. Meeting the Excess Cost Requirement (34 CFR §§ 300.202 (b)(2), 300.202(b)(3), 300.223; ND Admin. Code § 67-23-03-05)

1. **General.** A school district meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of IDEA are used. This amount is determined in accordance with the definition of excess costs. This amount may not include capital outlay or debt service.

Joint establishment of eligibility. If two or more school districts jointly establish eligibility in accordance with §300.223 Joint establishment of eligibility, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in those agencies for elementary or secondary school students, as the case may be.

Computation for excess cost requirement. To meet the excess cost requirement, a unit must have spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of IDEA are used. The amount may not include capital outlay or debt service.

XX. MAINTENANCE OF EFFORT (34 CFR§ 300.203, 300.204, Appendix D to Part 300 – Maintenance of Effort and Early Intervening Services)

The Upper Valley Special Education Unit assures that, except for the conditions stated in § 300.203 and as excepted under § 300.204 and 300.205, IDEA Part B funds will not be used to reduce the level of expenditures for the education of children with disabilities made by the school district from local funds below the level of those expenditures for the preceding fiscal year.

If the NDDPI determines that a school district is not meeting the requirements of IDEA Part B, including the targets in the North Dakota State Performance Plan (provision of FAPE in the least restrictive environment; state exercise of general supervision including child find, effective monitoring, use of resolution meetings, mediation, and a system of transition services; and disproportionate representation of racial and ethnic groups in special education and related services as the result of inappropriate identification), the school district may not reduce its maintenance of effort under § 300.203 for any fiscal year.

XXI. PERMISSIVE USE OF FUNDS (20 U.S.C. 1413(a)(4) 34 CFR 300.208)

IDEA Part B funds may be used for the following activities:

- A. Services and aids that also benefit nondisabled children. For the costs of special education and related services and supplementary aids and services provided in a regular

class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services.

- B. Early intervening services. To develop and implement a coordinated early intervening educational services system in accordance with 300.226.
- C. *Administrative case management.* A school district may use funds received under Part B of IDEA to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities that is needed for the implementation of those case management activities.

XXII. EARLY INTERVENING SERVICES (20 U.S.C. §1413 (f), 34 CFR § 300.226)

- A. A school district may not use more than 15 percent of the amount the school district receives under Part B of IDEA for any fiscal year, less any amount reduced by the school district pursuant to § 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. (Appendix D to Part 300 contains examples of how § 300.205(d), regarding local maintenance of effort, and § 300.226(a) affect one another.)
- B. *Activities.* In implementing coordinated, early intervening services under this section, a school district may carry out activities that include:
 - (1) Professional development (which may be provided by entities other than school district's) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
 - (2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.
- C. *Reporting.* Each school district that develops and maintains coordinated, early intervening services under this section must annually report to the NDDPI on
 - (1) The number of children served under this section who received early intervening services; and
 - (2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two-year period.
- D. *Coordination with ESSA:* Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and

carried out under the ESSA if those funds are used to supplement, and not supplant, funds made available under the ESSA for the activities and services assisted under this section.

XXIII. OVERIDENTIFICATION AND DISPROPORTIONALITY (20 U.S.C. § 1412(a)(24), 34 CFR §§ 300.173, 300.600(a), 300.646)

A. Policy

IDEA prohibits the inappropriate overidentification or disproportionate representation by race or ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in § 300.8, definition of child with a disability. The NDDPI has developed guidance for school district use to accomplish the identification of children with disabilities and to find and correct inappropriate overidentification or disproportionality. This guidance consists of a disproportionality state plan, a local policy review template, a student file review template, and guidance on local investigation and best practice.

IDEA requires the NDDPI to monitor for and report on the existence of disproportionate representation as a result of inappropriate identification. The Upper Valley Special Education Unit completes a review at the end of each school year to determine disproportionality.

B. Consequence of determination of overidentification or disproportionality:

If the NDDPI determines that significant disproportionality exists in a school district that is a member of Upper Valley Special Education Unit with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, the Upper Valley Special Education Unit assures that the school district will review and revise, if appropriate, its policies, procedures, and practices used in the identification or placement to ensure that its policies, procedures, and practices comply with the requirements of IDEA. The Upper Valley Special Education Unit further assures that the school district will publicly report on the revision of policies, practices, and procedures reviewed or revised. The Upper Valley Special Education Unit further assures that if significant disproportionality is determined to exist, the school district will reserve the maximum amount of funds under section 613(f) of IDEA to provide comprehensive coordinated early intervening services to serve children in the school district, particularly but not exclusively, children in those groups that were significantly overidentified under § 300.646(a).

XXIV. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILD (20 U.S.C. 1234(a))

A. Policy

The North Dakota Department of Public Instruction will seek to recover any funds made available under Public Law 108-446 for services to any child who has been determined erroneously classified as eligible to be counted through the annual child count by the Upper Valley Special Education Unit.

B. Procedures for Implementing and Monitoring Child Count

Recovery of funds for misclassified children is addressed by ND Admin. Code § 67-23-03-03.

1. The NDDPI will review annually the regulations for conducting a statewide child count.
2. The NDDPI will send letters annually explaining child count procedures to all special education units.
3. Each special education unit will respond to the request by submitting required data in a format prescribed by the NDDPI.
4. Each individual responsible for collecting child count information will verify to the best of his/her knowledge that the count is a true, accurate count by submitting a sworn affidavit.
5. Data are edited through computer checks as well as visual scanning to identify errors. Each apparent error and data element is checked with the special education unit from which it was submitted, and changes are entered into the unduplicated child count database.
6. The NDDPI compiles all child count information in required report forms.
7. Child count information submitted by special education units will be analyzed, comparing data to other records containing numbers of served students with disabilities collected by the NDDPI.
8. The NDDPI monitoring procedure to verify accuracy of the special education unit child count is as follows:
 - (i) A sample of students from the current child count is selected. An attempt is made to include all categories of disability.
 - (ii) The files for these students are reviewed on site for timeliness and completeness.
 - (iii) Student eligibility will be determined based on the following criteria:
 - (a) IEP was in effect and child was receiving special education and related services on IEP at the time of the count (December 1);
 - (b) evidence that child has been evaluated and determined to be a child with a disability eligible to receive special education and related services; and
 - (c) evidence of enrollment in school at the time of the count.

C. Procedures to Recover Funds Made Available for Children Erroneously Classified as Eligible to be Counted

1. The NDDPI will request the special education unit to return federal funds for all misclassified children who were included in the child count. These funds must be returned to the NDDPI within 30 days of notification.
2. It is the policy of the NDDPI to request return of federal per pupil allocations in a direct ratio to the percentage of error found during monitoring.
Example: If 20 files are reviewed and it is found that two of the students should not have been counted, the NDDPI will assume the special education units count has a 10% error; if the child count for that year is 500 students, the NDDPI will request the return of $.10 \times 500 \times$ per pupil allocation.

A request for return of funds will not be made without first affording the unit a review after reasonable notice has been given and the unit has had an opportunity to present information and data relating to the error calculation.

If the error is substantiated, the funds in question must be returned within 30 days of request.

3. If the special education unit does not return the funds, the NDDPI will suspend federal financial assistance immediately until the situation is clarified.
4. The NDDPI will return all funds to the Department of Education, Office of Special Education Programs for misclassified children who were included in the child count.

SECTION 7: OTHER PROCEDURAL POLICIES

XXV. HEARINGS RELATED TO LEA ELIGIBILITY (20 U.S.C. 1412(a)(13); 1413(c) and (d); 34 CFR § 76.401, 300.155)

A. Policy

Before taking any final action regarding any application submitted by a local education agency, the NDDPI provides reasonable notice and opportunity for a hearing.

B. Procedure

Disapproval of an Application, Opportunity for a Hearing (34 CFR 76.401)

School district or organization opportunity for a hearing under Part B of IDEA is addressed in N.D. Admin. Code section 67-23-03-07.

1. Final disapproval action will not be taken by the NDDPI on any application submitted by a special education unit without first affording the applicant reasonable notice and opportunity for a hearing.
2. The following procedures will be followed as set forth under 34 CFR §76.401 of the Education Department General Administrative Regulations (EDGAR).
 - (i) The applicant shall request the hearing within 30 days of the action of the NDDPI.
 - (ii) Within 30 days after it receives a request, the NDDPI shall request the assignment of an administrative law judge from the North Dakota Office of Administrative Hearings, who shall hold a hearing on the record and shall review the NDDPI action.
 - (iii) No later than 10 days after the hearing the administrative law judge shall issue a written ruling, including findings of fact and reasons for the ruling.
 - (iv) If the administrative law judge determines that the NDDPI action was contrary to state or federal statutes or regulations that govern the applicable program, NDDPI shall rescind its action.
 - (v) If the NDDPI does not rescind its final action after a review, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary, U.S. Department of Education, within 20 days after the applicant has been notified by the NDDPI of the results of the NDDPI review. If supported by substantial evidence, findings of fact of the NDDPI are final.
 - (vi) The NDDPI shall make available at reasonable times and places to each applicant all records of the agency pertaining to any review or appeal the applicant is conducting under this section including records of other applicants.

XXVI. PERSONNEL STANDARDS (20 U.S.C. 1412(a)(14); 34 CFR 300.156)

It is the policy of the Upper Valley Special Education Unit to adhere to North Dakota personnel standards as stated by the Educational Standards and Practices Board and the NDDPI. The Upper Valley Special Education Unit and the school district assure that each person employed as a public school special education teacher in North Dakota who

teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher under ESSA.

NDDPI is in the process of reforming and improving the personnel preparation and professional development system for teachers and related services personnel through the North Dakota State Personnel Development Grant. This project will develop a comprehensive and unified personnel development planning and implementation model that will address both special education and general education personnel development and will coordinate with the NDDPI's unified system initiative. Anticipated outcomes of the project include improved understanding of personnel development needs and processes to meet those needs; increased hiring, support, and retention of special education staff in rural schools; reduction of duplicative training, education, and in-service programs; and data-based evaluation activities.

Credential requirements for special education directors, early childhood special education teachers, teachers of children with emotional disturbance, physical disabilities, specific learning disabilities, paraeducators, and school psychology interns are addressed in ND Admin. Code Article 67-11.

The Upper Valley Special Education Unit assures that member school districts take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities.

The Upper Valley Special Education Unit adheres to § 300.156(e) *Rule of construction*. "Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part."

XXVII. PUBLIC PARTICIPATION (U.S.C. 1412(a)(19), 1413(a)(8); 34 CFR §§ 300.165, 300.212)

The Upper Valley Special Education Unit assures that, prior to the adoption of any policies and procedures needed to comply with IDEA Part B, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. The Upper Valley Special Education Unit further assures that all documents relating to the eligibility of the Upper Valley Special Education Unit under IDEA Part B are available to parents of children with disabilities and to the general public.

XXVIII. Upper Valley SPECIAL EDUCATION UNIT POLICIES AND PROCEDURES

The Upper Valley Special Education Unit will keep on file with the NDDPI its Policies and Procedures that establish eligibility under IDEA Part B. The Policies and Procedures

remain in effect until the unit submits modifications that the NDDPI or the Upper Valley Special Education Unit decide are necessary. The NDDPI may require modifications if the provisions of the IDEA or state statute are amended; if federal or state regulations implementing IDEA are amended; if there is a new interpretation of the IDEA by federal or state courts; or there is an official finding of noncompliance with federal or state law or regulations.

XXIX. STORM AND DISASTER POLICY

Bus routes are responsibility of the individual school districts and Upper Valley adheres to their policies.

XXX. CHILD ABUSE AND NEGLECT

All employees of the Upper Valley Special Education Board are required by North Dakota law to report cases of suspected child abuse and neglect. Section 50-25.1-09 of North Dakota Century Code states that any employee making a good faith report is immune from liability.

Reports may be made in two ways:

- A. Written*
- B. Verbal - in case of a verbal report, a written report must follow the verbal report within 48 hours.*

Verbal and/or written reports should be made to the following agencies:

*Walsh County Social Services
516 Cooper Ave
Grafton, ND 58237
701-352-5111*

*Grand Forks County Social Services
151 S. 4th St. #201
Grand Forks, ND 58201
701-787-8500*

*Cavalier County Social Services
324 7th Avenue
PO Box 630
Langdon, ND 58249-0630
256-2175*

The UVSE Board will not impose any form of employee disciplinary action on employees who file a good faith abuse and/or neglect report.

XXXI. GENERAL APPROVAL STATEMENT

The Upper Valley Special Education Unit provides assurance to the NDDPI that requirements of Part B of Public Law 108-446 [20 U.S.C. § 1400 et. seq.], the Individuals with Disabilities Education Act and its implementing regulations at 34 CFR Part 300, as described in the Eligibility Requirements document, will be met by the Upper Valley Special Education Unit and by member school districts, and that the document has been approved by the board. Persons signing this document assure that they are authorized to make assurances on behalf of the Upper Valley Special Education Unit and their respective member school districts. The Upper Valley Special Education Unit further assures that consideration and approval of this Eligibility Requirements document are noted in official minutes of the Upper Valley Special Education Unit board. If a school district changes its membership in a special education unit, or if a special education unit otherwise changes composition, a revised Eligibility Document will be submitted to the NDDPI by each affected unit within 45 calendar days of the effective date of the change.

Board President's Signature

Special Education Director's Signature

Date

INTRODUCTION

The need for a formalized set of policies for the Special Education Board is part of the natural development of a multi-district special education unit concept. Each new issue has the possibility of becoming precedent setting. Each new financial problem becomes a multi-district concern and each growth of program is a shared responsibility among all districts.

The policies contained in this manual serve as a guideline to the management of the operation of the Upper Valley Special Education Unit. Every situation cannot be addressed by a single document. The statements contained herein were written broadly enough to allow for management decisions on a daily basis, with periodic review. The statements are also clear enough in their intention to address the compliance with state and federal mandates in Special Education. The policies contained within the document are subject to annual review and revisions.

A review of the UVSE Board Policies Handbook will take place during the month of December and June of each year. Staff input, administration input, along with membership school input will be solicited by the UVSE Policy committee.

FEDERAL ASSURANCES Non-Discriminatory Policies

The UVSE Unit is a public entity. Its service is to provide educational opportunities to disabled students within the

Upper Valley Special Education Unit. The UVSE Board gives its assurance to the various policies as it applies in the following areas:

The UVSE Unit shall adhere to the provisions contained in Title VI of the Civil Rights Act of 1964, as amended, 42 USC 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal Financial Assistance. Inquiries regarding Title VI should be directed to the Director of Special Education, P.O. Box 272, Grafton, ND 58237, or by calling 352-2574.

The UVSE Unit agrees to the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 20 USC 794, which prohibits discrimination on the basis of handicap in programs and activities receiving Federal Financial Assistance. Information or action request relating to Section 504 of the Rehabilitation Act should be directed to the Director's office at P.O. Box 272, Grafton, ND 58237 or by calling 352-2574.

The UVSE Unit, in accordance with Federal statutes, does not discriminate on the basis of sex in the educational programs or activities or employment which it operates with Federal Assistance, and follows requirements by Title IX and Part 86 of the Department of Health, Education, and Welfare regulations not to discriminate in such a manner. This requirement of nondiscrimination extends to educational programs and activities as well as to employment therein. Inquiries concerning the application of Title IX and possible non-compliance can be referred to the Director of Special Education at P.O. Box 272, Grafton, ND 58237, or by calling 352-2574.

The UVSE assures compliance with the Age Discrimination Act of 1975, as amended, 42 USC 6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving Federal Assistance. All inquiries regarding age discrimination in the UVSE Unit should be directed to the Director's office at P.O. Box 272, Grafton, ND 58237 or by calling 352-2574.

The UVSE Unit assures compliance with the Individuals with Disabilities Education Improvement Act of 2004 as amended, requires that grantees provide a number of policies, procedures, and assurances. The UVSE Unit is required to update the response to this requirement every three years. Inquiries regarding EHA-B in the UVSE Unit regarding assurance statements should be directed to the Director's office at P.O. Box 272, Grafton, ND 58237 or by calling 352-2574.

All inquiries that relate to Federal Assurances and Non-Discriminatory policies shall be processed in accordance with the procedures outlined in the UVSE Unit Affirmative Action Plan educational programs in the UVSE Unit.

Board of Education

100 – PHILOSOPHY

The individual districts within the Upper Valley Special Education Unit believe in the inherent worth and individuality of each and every child. They believe in the right of every child to grow into a respected, functioning member of society and in the role of the school in providing instruction that will prepare each child to the best of his or her ability, for success in fulfilling that right. This presumes consideration for the needs of the whole child and implies attention to the following areas: (a) academic knowledge, (b) problem-solving and critical thinking skills, (c) social skills and emotional well-being, (d) skills necessary for gainful employment at a level appropriate to the individual student, and (e) other skills that will increase the ability of the student to live in an increasingly complex world.

These individual districts believe that this philosophy includes the right of every student, regardless of any handicapping condition as defined by law, to receive a free and appropriate education in the least restrictive environment.

These districts also recognize that the intent of the legislature in providing for special education and related services is neither to guarantee an average level of functioning for all children served by this unit, nor to abrogate the rights and responsibilities of the parents in matters pertaining to their children. It is merely to provide services that will assist each child in receiving benefit from his or her educational program.

UPPER VALLEY SPECIAL EDUCATION UNIT

110 – DESIGNATION OF DISTRICTS

The Upper Valley Special Education Unit lies within the Counties of Walsh and rural Grand Forks.

120 – GENERAL ORGANIZATION

121 – Number of Members: The UVSE Board will consist of seven (7) appointed members to the UVSE Organizational Plan and By-Laws.

122 – Terms: Refer to North Dakota Century Code. The term of each elected member of a school board is three years, except when the member is completing the unexpired term of another. The term of office for a school board member begins at the annual meeting in July following the member's election and continues until a successor is elected and qualified.

123 – Appointed Procedures: See UVSE Organizational Plan and By-Laws appendix #1.

130 – OFFICERS, AUXILIARY PERSONNEL, AND PRESCRIBED DUTIES

At the annual meeting in July, the UVSE Board shall elect from among members a President and a Vice President who shall serve for one year. The UVSE Board shall appoint a Business Manager who is not a member of the UVSE Board who shall hold the office at the pleasure of the UVSE Board and receives such compensation for services as shall be fixed by laws.

130.1 – President: The President shall preside at all meeting the UVSE Board, appoint all committees subject to approval of UVSE Board, sign all warrants ordered by the UVSE Board to draw from school monies and perform other acts required by laws.

130.2 – Vice President: The Vice President shall assume the duties of president in case of absence. In the absence of the President or Vice President at any meeting a President Pro Tem may be elected by the UVSE Board.

130.3 – Business Manager: The Business Manager is appointed for a period of time specified by the UVSE Board. The Business Manager is an appointee of the UVSE Board, and as such specifically responsible to it for the direction of the Business Manager’s office.

130.4 – Duties: (See North Dakota Century Code.)

1. Keep a true and complete record of all the proceedings of the UVSE Board.
2. Take charge of all the books and documents of the District and deliver them to the successor in office.
3. Prepare and submit to the UVSE Board and to the County Superintendent of Schools an annual report which shall contain such items as may be required by the Superintendent of Public Instruction.
4. Countersign all warrants for school monies drawn upon the UVSE District by order of the UVSE Board.
5. Perform such other duties as the UVSE Board may require.
6. Keep a separate, true and correct account of the receipts and expenditures of each fund of the District.
7. Prepare and submit monthly to the UVSE Board a report of the state of the finances of the District, and submit such report at any other time upon the request of the UVSE Board.
8. Produce at any meetings of the UVSE Board or of any committee appointed to examine the accounts, whenever ordered to do so by the UVSE Board, all of the books and papers pertaining to this office.
9. Keep safely in possession or under control all UVSE monies coming into the Business Manager’s hands.
10. Pay out UVSE monies under the Business Manager’s control in accordance with the provisions of North Dakota Century Code. The form of warrant shall be prescribed by the Superintendent of Public Instruction and shall be so drawn that when signed by the Business Manager in an appropriate place it becomes a check on the UVSE depository.
11. Receive and have custody of all monies from every source which the UVSE Board of the district is authorized to receive.

140 – POWERS, DUTIES, AND FUNCTIONS OF THE UVSE BOARD

The general powers of the UVSE Board are specified in the North Dakota School Laws (see North Dakota Century Code).

150 – UVSE BOARD MEMBERS

Individuals appointed to the UVSE Board by their representative school districts have official capabilities only when they sit with the entire UVSE Board for deliberations, or when they have been granted official capacity to act outside of the UVSE Board in school business matters.

150.1 – Compensation: Each member of the UVSE Board shall receive such compensation as provided for in section 15-29-05 North Dakota Century Code.

160 – MEETING

160.1 – Place: All meetings of the UVSE Board, unless otherwise specified, will be held in the membership school districts.

160.2 – Visitors: All meetings of the UVSE Board will be open to visitors.

160.3 – Notice of Meetings: Regular meetings of the UVSE Board may be listed in the Grafton Record.

1. Regular Meetings: The regular meetings of the UVSE Board will be held during the second week of each month except as otherwise determined by the UVSE Board.

2. Special Meetings: According to North Dakota Law (15-29-02), special meetings may be called by the president or by any two members of the UVSE Board. Written or printed notice of a special meeting shall be given to each member of the UVSE Board; provided, however, that the attendance at any meeting, without objection, by any member shall constitute waiver of the notice required to be given to such member.

160.4 – Agenda:

- a. Responsibility for Planning: The Director of Special Education compiles the agenda from UVSE business matters flowing from the UVSE unit as a whole.
- b. Delivery to UVSE Board: The agenda will be mailed or delivered to the UVSE Board to arrive prior to the meeting date.

160.5 – Operating Procedures: The UVSE Board will conduct its business on the basis of Robert’s Rules of Order, unless otherwise specified by the UVSE Board members.

160.6 – Order of Business:

Call to Order
Approval of Minutes
Motion to Pay Current Bills
Information/Concerns/Guests
Unfinished Business
New Business
Other Business
Adjournment

160.7 – Guidelines for appearance of staff members, students, and citizens at UVSE Board meetings:

1. Any individual wishing to appear before the UVSE Board should communicate same to the Director of Special Education prior to the completion of the agenda so that they can be placed on the agenda. One other reason for this communication is to see whether the administrative office can handle the request or complaint before it is referred to the UVSE Board for discussion and decision. All requests or complaints which cannot be handled by the administration will be referred.

161 – AMENDMENT OF BOARD POLICY: Amendment Without Notice: Any rule or regulation may be suspended, repealed, amended, or adopted at any regular meeting by the unanimous vote of the full board without previous notice having been given. Amendment by Notice: At any regular meeting, any rule or regulation of the Board may be suspended, repealed, amended, or adopted by a majority vote of the full board provided that notice of the proposed action shall have been given at the last regular meeting. Notification of Change of Regulations: Any and all employees of the school district affected by the changes in regulations shall be immediately notified in writing concerning the changes.

162 - NEGOTIATIONS PRIORITY OBJECTIVES AND GOALS:

The Board, as the duly constituted representative of the people and as the agent of the State, is legally responsible for the conduct of special education in the UVSE Unit and its authority to make final decisions as provided for by law may not be delegated or abdicated.

The Board’s rights include, but are not limited to, all matters relating to the management of the UVSE Unit and its administration; the employment and direction of staff; and the determination of the UVSE Unit’s program of instruction.

The Board has the duty, under the law, to negotiate with representatives of certificated employees in regard to salary, formulation of an agreement, binding arbitration and interpretation of an existing agreement. The Board shall also negotiate as to what the other subjects of negotiation, if any, will be.

The goal of the Board in negotiations should be to arrive at a fair and reasonable contract settlement in an orderly and timely fashion, while protecting the public interest. In pursuit of this stated goal, the Board endorses the following set of priority objectives:

1. The Board's negotiating agents shall review and evaluate the procedures and processes of the past that relate to the Board's negotiations with employee organizations.
2. The Board's negotiating agents shall prepare proposals for guidelines which clearly delineate the role and relationships in negotiations of the Board, the superintendent and the Board negotiating team.
3. Training shall be provided to the Board's negotiating agents in the latest concepts and techniques of bargaining from the management point of view. Additional objectives for desired training and measures of success shall be determined relating achievement to these objectives.
4. The Board's negotiating agents shall develop and implement schedules and strategies designed at a) increase the effectiveness of negotiations in reaching agreement and resolving bilateral differences and for b) reducing tensions, stresses, and time losses resulting from negotiations. The strategies shall include specifications for successful achievements.
5. The Board will articulate its position vis-à-vis the next round of negotiations and the change in working conditions it wishes to see implemented in order to advance the educational system.

163 – Board Negotiating Agents: It is the policy of the Board to appoint these Board members to serve as negotiators with the professional staff. One member of the Board will serve as chief negotiator. These appointments shall be made by each year. The negotiating team shall secure advice and input from the as necessary. The tentative agreements reached by the negotiating teams are subject to final approval by the Board at an open meeting after all subjects under consideration have been negotiated to tentative agreement.

163.1 – Director's Role in Negotiations:

The Director shall serve as a resource person to either negotiating team, as requested, and shall serve as advisor to the Board in both budgetary and philosophical consideration during negotiations.

163.2 – Payment of Negotiations Cost:

It shall be the policy of the Board that the Special Education Unit share equally with the representative organization in the costs of meeting rooms, secretarial staff, and other miscellaneous costs of negotiations, including the expense of mediation and impasse fact-finding.

The special education unit shall provide a copy of the negotiated agreement to each individual covered by it and one copy each for the files of the special education unit and the representative organizations. Other copies may be printed and provided for the use of either party at the expense of the party requesting the copies.

163.3 – Board Determination of Appropriate Unit and Representative Organization:

Pursuant to the provisions of the North Dakota Century Code, as amended, the Special Education Board of Upper Valley Special Education Unit (hereinafter "Board") recognizes all certified teachers employed by the Board (and _____, _____, and _____ if there are any other employees to be added, list them _____ here) as the appropriate negotiating unit for the 20__ - __ negotiated agreement.

The Board further determines that _____ represents a majority of the persons within the above appropriate negotiating unit and it therefore recognizes _____ as the representative organization of that unit for the 20__ - __ negotiated agreement.

163.4 – Notice of Intention to Negotiate:

Pursuant to the provisions of the North Dakota Century Code, as amended, you are hereby notified that the Upper Valley Special Education Unit desires to modify an appropriate negotiating unit

and recognition as a representative organization should be filed with the clerk of the school at your earliest convenience. (Note: Send to current representative organization and post when Board wishes to initiate negotiations.)

164 – UVSE BOARD SELF-EVALUATION:

164.1 – Instrument: The UVSE Board self-evaluation instrument will be distributed by the Board President in March of each year. The evaluation instrument is attached to all UVSE Policy Books.

165 – NDSBA Convention: The Upper Valley Special Education Unit Board Chairman, Chief Administrator, and Business Manager will be given the opportunity to attend the NDSBA Annual Convention. Other Board Members upon request and Board approval will be allowed to attend the NDSBA Annual Convention. The Upper Valley Special Education Board will provide the financial support in its annual budget for this convention.

166 – Assignment of Classroom Space (Disabled Students):

When it becomes necessary, whether by reason of lack of space or otherwise, to place students in temporary classroom space outside their regular building of attendance or their regular attendance area, the students to be so assigned shall be randomly selected. Such placement shall be on a temporary basis, not to exceed one school year, and shall be made in a manner which does not discriminate against disabled students. The facilities so provided shall be comparable to those provided on a permanent basis to students and may include portable classrooms and space leased from other persons. Exception to this assignment policy may be made on the basis of medical problems, accessibility, mobility of the student, and physical and academic needs of the students.

167 – UVSE Policy on Sexual Harassment:

The policy of the Upper Valley Special Education Board forbids discrimination against any employee or applicant for employment on the basis of sex. The Upper Valley Special Education Board will not tolerate sexual harassment activity by any of its employees. This policy similarly applies to non-employee volunteers who work subject to the control of school authorities.

A. General Prohibitions

1. Unwelcome Conduct of a Sexual Nature

a. Conduct of a sexual nature may include verbal or physical sexual advances, including subtle pressure for sexual activity, touching, pinching, patting, or brushing against; comments regarding physical or personality characteristics of a sexual nature; and sexually-oriented “kidding”, “teasing”, double-extendors, and jokes.

b. Verbal or physical conduct of a sexual nature may constitute sexual harassment when the allegedly harassed employee has indicated, by his or her conduct, that it is unwelcome.

c. An employee who has initially welcomed such conduct by active participation must give specific notice to the alleged harasser that such conduct is no longer welcome in order for any such subsequent conduct to be deemed unwelcome.

2. Sexual Harassment

For the purpose of this policy, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment if:

a. Submission to the conduct is made either an explicit or implicit

condition of employment.

b. Submission to or rejection of the conduct is used as a basis for an employment decision affecting the harassed employee; or

c. The conduct substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

B. Specific Prohibitions

1. Administrators and Supervisors

a. It is sexual harassment for an administrator or supervisor to use his or her authority to solicit sexual favors or attention for subordinates when the subordinate's failure to submit will result in adverse treatment or when the subordinate's acquiescence will result in preferential treatment.

b. Administrators and supervisors who either engage in sexual harassment or tolerate such conduct by employees shall be subject to sanctions as described below.

2. Non-administrative and Non-supervisory Employees

It is sexual harassment for a non-administrative and non-supervisory employee to subject another such employee to any unwelcome conduct of a sexual nature. Employees who engage in such conduct shall be subject to sanctions as described below.

C. Reporting, Investigation, and Sanctions

1. It is the express policy of the Upper Valley Special Education Board to encourage victims of sexual harassment to come forward with such claims. This may be done through the Employee Grievance Procedure.

a. Employees who feel that administrators or supervisors are conditioning promotions, increases in wages, continuation of employment, or other terms or conditions of employment upon sexual favors are encouraged to report these conditions to the appropriate administrator. If the employee's direct administrator or supervisor is the offending person, the report shall be made to the next higher level of administration or supervision.

b. Employees are also urged to report any unwelcome conduct of a sexual nature by supervisors or fellow employees if such conduct interferes with the individual's work performance or creates a hostile or offensive working environment.

c. Confidentiality will be maintained and no reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

2. In determining whether alleged conduct constitutes sexual harassment, the totality of the circumstances, the nature of the conduct, and the context in which the alleged conduct occurred will be investigated. The Director has the responsibility of investigating and resolving complaints of sexual harassment.

3. Any employee found to have engaged in sexual harassment shall be subject to sanctions, including but not limited to, warning, suspension, or termination subject to applicable procedural requirements.

Sources: Simons, Cuddy & Friedman, Santa Fe, NM

Section 703 of Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000e, et seq.

The North Dakota Human Rights Act of 1983.

168 – Patron Complaints Policy:

Constructive criticism of the Special Education Unit is welcomed by the UVSE Board whenever it is motivated by a sincere desire to improve the quality of the educational program or to equip the schools to do their tasks more effectively. The Board has, however, confidence in its professional staff and desires to support their actions in order that they can be free from unnecessary, spiteful, or negative criticism, and complaint. Therefore, whenever a complaint is made directly to the Board as a whole, or to a Board member as an individual, it will be referred to the special education administration for study and possible solution. Since individual board members have no authority to resolve complaints, other than by formal board action, administrators are expected to follow up on all complaint referrals and to advise the board members of the nature of the complaint and the actions taken. The Board expects that the administration will develop a procedure for receiving complaints courteously and that it will take steps to make a proper reply to the complaint. This follow-up should generally take the form of a brief written memorandum to the Board members.

168.1 – Director of Special Education: Complaints about the Director shall be directed to the Board Chairman (or designate) and the Chairman shall:

1. Investigate the complaint;
2. Promptly notify the Director if the complaint is to be placed in the personnel file;
3. Schedule a meeting with the Director, the complainant, and the Board Chairman, if deemed appropriate; and
4. Provide a written response to the complainant within fifteen (15) days of receipt of the complaint, with copies to all Board members.

168.2 – Coordinator: Complaints about a Coordinator shall be directed to the Director of Special Education. The Director shall:

1. Investigate the complaint;
2. Promptly notify the Coordinator if the complaint is to be placed in the Coordinator's file;
3. Schedule a meeting of the Coordinator, the complainant, and the Director if deemed appropriate; and
4. Provide a written response to the complaint within fifteen (15) days of receipt of the complaint.

168.3 – Staff/Personnel: UVSE Staff are employed at two levels: those who work in a local school district and those who work out of the UVSE office. The information as to whom they are employed can be obtained from the Director of Special Education, a school administrator, or directly from the employee. At such time that an individual wishes to lodge a complaint against a special education staff member, the complaint shall be made in writing. If the individual is employed by the school district, the written complaint shall be given to the principal or superintendent of the school in which the employee works. The principal shall address the complaint in the manner prescribed by that district's policy manual. If the individual is employed by the UVSE Unit, the written complaint shall be given to the Director of Special Education. The written complaint will be answered in writing within 10 working days. If the individual making the complaint does not receive a satisfactory response, they may bring or send the written complaint directly to the Chairman of the UVSE Board. Although complaints must be made in writing, the individual may also attend the Board meeting in person. If the individual toward whom the complaint is directed wishes to appear in person and address the charges, they may also attend. The Board shall respond in writing within 10 working days following the monthly meeting of the Board. The UVSE Board meets regularly on the second Wednesday of the month.

168.4 – Non-Certified Personnel: Complaints about non-certified personnel (secretaries, teacher aides, etc.) shall be directed to the administrator responsible for the supervision of that employee. The administrator shall:

1. Investigate the complaint;

2. Promptly notify the employee if the complaint will become a part of the employee's personnel records;
3. Schedule a meeting of the employee, complainant, and administrator, if deemed appropriate; and
4. Provide a written response to the complainant within fifteen (15) days of the receipt of the complaint.

If either party is not satisfied with the handling of the complaint, the matter can be appealed to the local superintendent for final resolution or the Director of Special Education.

This procedure is intended to minimize the risk of a possible action for libel or slander, to retain the impartiality of the board and to comply with North Dakota law.

168.5 – Contracted Service Providers: Complaints about contracted service providers (vision consultant, OT, PT, psychologist, etc.) shall be made to the Director of Special Education who shall:

1. Investigate the complaint;
2. Promptly notify the employee if the complaint will become part of the employee's personnel file.
3. If deemed appropriate, schedule a meeting of the employee, complainant, and administrator.
4. Provide a written response to the complainant within fifteen (15) days of the receipt of the complaint.

168.6 – Patron Complaints Regarding Instructional Media: The UVSE Board operates an Instructional Media Center. The media is loaned on a short and long term basis to Special Education staff in the UVSE area schools. Parents and/or patrons who have complaints or disagreements with materials or content shall make a written complaint and send it to the Director of Special Education. The complaint should include the following:

1. Name of the material
2. Publisher
3. Copyright date
4. Statement of the complaint (what is objectionable and why)
5. Sign and date the complaint

The Director shall forward the complaint and material to the Media Committee within 30 days of receipt. The director of Special Education shall notify the individual of the Committee's decision as to whether or not to remove the material from the Media Center. If the parent and/or patron is not satisfied with the decision of the Committee, they may appeal the decision in writing to the UVSE Board. The decision of the Board shall be final.

The Media Committee is made up of the following members:

1. Director of Special Education
2. One Program Coordinator
3. One Social Worker
4. One Special Education Teacher
5. Two parents of students enrolled in a special education program.

168.7 – Other Complaints: Complaints, other than those set forth above, shall first be directed to the Director of Special Education for review. Since individual board members have no authority to resolve complaints, other than by formal board action, administrators are expected to follow up on all complaint referrals and to advise the board members of the nature of the complaint and the action(s) taken. This follow-up should generally take the form of a brief written memorandum to the board members. If complaints, other than those concerning personnel, are not satisfactorily resolved, the complainant may request that the matter be placed on the agenda of the next regular meeting of the board. Generally, all parties involved, including the administrator(s), shall be asked to attend such a meeting for purposes of presenting additional facts, making further explanations, and clarifying the issues. The board will not consider or act upon complaints that have not been explored at the appropriate administrative level.

200 – ADMINISTRATION

210 – Director of Special Education:

The Director shall have supervision of all special education programs located in school districts belonging to the UVSE organization all under the direction and control of the UVSE Board, and shall perform such additional duties in connection with the UVSE Unit as the UVSE Board may prescribe.

211 – Appointment:

211.1 – Qualifications: To qualify for consideration to be the Director of the UVSE Unit, one must be a holder of the North Dakota Special Education Administrative Credential (Master’s Degree – prefer in special education, nine (9) semester hours in two or more areas of special education, eight (8) semester hours in school administration and two years of successful experience in one area of special education, or at least be able to secure same before the commencement of a tendered contract.).

211.2 – Selection Procedures: Any vacancy existing in the Director’s office will be filled by listing the vacancy with Teacher Placement Agencies. From the notification sent to the placement agencies, a list of applications will be secured. The UVSE Board will preview all applications, and select those prospects for interviews. From the candidates interviewed, one will become the director. Formats for applying will be furnished all candidates.

211.3 – Contractual Provisions: The Director’s contract will commence on July 1st of a given year, and will run for a period of twelve months, ending on June 30th. The contract can be written at a minimum of one year, or a maximum of three years, if the UVSE Board so decides. Salary provisions are a premise of the UVSE Board, and would become a part of the accepted contract.

211.4 – Vacation: The Director will be entitled to fifteen (15) working days paid vacation for the first five (5) years of employment as Director within the UVSE Unit. Thereafter, one (1) additional day of vacation up to a maximum of twenty (20) working days of paid vacation will be earned.

211.5 – Separation: The evaluation, renewal or discharge of the Director of Special Education shall be in accordance with North Dakota Century Code. 211.6 – Evaluation: The first evaluation (formative) will be in place no later than

December 15 and the second (summative), not later than March 15.

212 – Executive Officer of the UVSE Board:

The Director will be the Executive Officer of the UVSE Board in all matters relating to the operation and management of the UVSE Unit as duly authorized by the UVSE Board. The Director will have the authority to act on behalf of the UVSE Board in matters needing immediate attention with decisions subject to later approval by the UVSE Board.

213 – Responsibility and Duties:

There is no way that this handbook can accurately cite the entire list of responsibilities and duties of the Director of Special Education, but for some understanding it is necessary to cite what are the most important items.

213.1 Is responsible for the development and operation of a total Special Education program including IEP’s for students. Oversees the structure, organization, and conduction of all preschool screening activities. Is responsible for devising with program coordinators and implementing with school administrators early entrance procedures. Is responsible for all aspects of Due Process including that applicable to students, parents, and schools. Develops and carries out evaluation of program planners, program components, and program product. Is responsible for reporting information to appropriate administration and agencies. Develops and implements system for referrals, screening, directing team staffing, individual education programs, and maintaining of a disabled student’s progress in Special Education.

213.2 – Attending Meeting: The director shall attend all meetings of the UVSE Board except as excused from attending by the UVSE Board.

213.3 – Recommendation for Employees Certified and Non-Certified: The Director shall preview the credentials of every applicant for a position with the Unit and make the necessary recommendations. No position will be filled without consultation of recommendation from the Director. The Director will also be responsible for recommending present employees for promotion, demotion, or discharge. The Director will develop job descriptions. The Director will evaluate the coordinators and office staff.

213.4 – Suspension of Employees: The Director shall have the authority of suspending and recommending for discharge any employee whose services are unsatisfactory, subject to approval by the UVSE Board. No employee will be suspended by the Director without due process.

213.5 – Assignment of Personnel: Assignments are made in accordance with by-laws.

213.6 – Requirement of Reports: The Director shall have the authority to require reports from school personnel to aid in fulfilling responsibilities to the UVSE Board in reference to monthly and annual reports on the conditions of complying with federal and state laws and regulations. (December 1st 94-142 child counts, financial reports, and all tuition agreement(s).

213.7 – Formation of UVSE Policies: The Director shall implement the UVSE policies and in conjunction with other administrators, prepare policies, bylaws, and regulations needed for the direction and control of the UVSE unit as well as long and short term Special Education plans.

213.8 – UVSE Salary Schedule: The Director shall serve as a resource person to either negotiating team and shall serve as advisor to the Board in both budgeting and philosophical consideration during negotiations.

213.9 – Study of Curriculum Involvement: The Director shall direct studies to determine the adequacy of the curriculum in conjunction with the professional staff, establish in-services (Walsh-Pembina) and to make recommendations to the UVSE Board on new courses of study or improvements in the organization of the curriculum as the needs arise.

213.10 – Business Agent for Board: The Director shall receive communications relative to school affairs and consult with individuals having business with the UVSE Board. The Director shall have charge of the operation of the UVSE equipment located in the membership school districts. Shall advertise for bids for equipment and purchases.

213.11 – UVSE Budget: The Director shall prepare, in conjunction with the UVSE Business Manager and other professional people an annual UVSE budget for presentation to the UVSE Board. The Director shall administer the budget as approved by the UVSE Board, acting at all times in accordance with legal requirements and adopted policies of the UVSE Board. Shall apply for all grants and complete financial applications. With Business Manager: Shall complete and file state financial applications for staff, transportation, lodging, and related services. Completes application for EHA-Part B 94-142 funds including programs, budgets, assurances, etc. Completes Title VI-B 94-142 reports for preceding fiscal year. Incentive Funds. Completes reports for preceding fiscal year on the utilization of Preschool Incentive Funds. Completes application for PL 100-297 funds. Completes PL 100-297 financial reports for previous fiscal year. Works with office social workers on the use of state contracted service funds. Monitors receipts and expenditures on the UVSE accounts. Works on all receipts and expenditures on UVSE accounts.

213.12 – Purchasing Agent: The Director shall be the prime purchasing agent for the UVSE Board and shall have the authority to purchase supplies and equipment under the UVSE budget and regulations of the UVSE Board. The Director will set the purchasing procedures to be used throughout the system in order to make necessary materials, equipment, and other resources available to staff and shall call on all school personnel to follow the set procedures.

213.13 – Transportation: The Director will work with school administrators to

coordinate transportation: 1) weekend routes 2) daily bus rides.

213.14 – Emergency Authority: The Director shall perform such duties as the UVSE Board may require and in the absence of specific rules and advice from the UVSE Board shall assume any authority or perform any duty which any particular unforeseen situation may demand, subject to later consideration by the UVSE Board.

213.15 – Public Relations: The UVSE Director shall interpret the philosophy, aims and objectives of the UVSE Unit, and call on all UVSE personnel to accomplish this.

300 – UVSE COORDINATORS

Coordinators are assigned duties by the Director of Special Education and they will be directly responsible to same for the execution of the policies, rules, and regulations of the UVSE Board and the Director shall be cooperative and endeavor to clearly define lines of administrative authority and supervisory responsibilities. A more detailed job description will be written by the Director of Special Education for each of the Coordinators. The job description will be give to them on August 15th of each new school year.

310 – Appointment:

310.1 – Qualifications: Coordinators must be holders of First Grade Professional Certificates, Secondary or Elementary, and also the holders of Special Education Credentials. (Ref. Guide 1 – laws, policies, and regulations for special education for exceptional students).

310.2 – Selection: Coordinators will be selected from candidates within the school structure, as well as from outside. Candidates will be selected by the UVSE Board upon the recommendation of the Director of Special Education.

310.3 – Contract: All contracts for Coordinators will be their contract period. Pay periods will be indicated in the contract. Contract periods will be determined by the Upper Valley Special Education Board.

310.4 – Contract Renewal/Separation: Contract separation shall be conducted in accordance with North Dakota Century Code.

310.5 – Program Coordinators: All program Coordinators will be evaluated as specified by North Dakota Century Code.

311 – Executive Officer for the Director: The Coordinators will be the Executive Officers for the Director on all matters relating to special education issues. The Coordinators will have the authority to act on behalf of the Director on all matters concerning the operation and management of their special education programs subject to later approval by the Director.

312 – Responsibilities: There is no way that this section can accurately cite the entire list of duties and responsibilities of the Coordinators, but it will provide a framework from which the Coordinators can operate.

312.1 – Meetings:

1. UVSE Board: The Coordinators may attend all regular meetings of the UVSE Board without invitation, and shall attend special meetings if the Director deems it necessary.
2. Administrative Meetings: The Coordinators shall attend administrative meetings according to a schedule set by the Director.
3. Faculty Meetings: The Coordinator shall determine the time and place for all faculty meetings in the appropriate administrative unit.

312.2 – Teacher Supervision:

The Coordinators shall be responsible for the supervision and evaluation of certified and non-certified personnel under their immediate jurisdiction. Coordinators shall submit periodic reports to the Director on the status of each teacher relative to achievement, performance, and fitness for the position.

Any unusual situations involving the teaching staff should be communicated promptly to the Director. Student records are the property of the UVSE Unit. Teachers may make copies of these materials if it does not harm any persons or jeopardize the integrity of the UVSE Unit.

312.3 – Teacher Recruitment/Selection: The Coordinators shall participate actively in the recruitment and selection of faculty members through cooperative efforts with the Director of Special Education.

312.4 – Teacher Recommendations: The Coordinators will be called upon to make recommendations to the UVSE Board concerning individual faculty members on an annual basis. Procedural concepts as defined in the statute must be followed.

312.5 – Course of Study: The Coordinators shall conduct constant and consistent studies and evaluations of existing curriculum, in cooperation with professional staff members to provide the most rewarding courses of study for the Coordinators disabled students.

312.6 – Textbook Selection: The Coordinators shall work cooperatively with members of the professional staff in the selection of appropriate text and workbook materials for the curriculum. Time should be set aside during the school term for ongoing evaluations of teaching materials.

312.7 – Teaching Equipment: The Coordinators shall have charge of the equipment assigned to the buildings, and will hold employees accountable for any misuse of same. The Coordinators shall supervise building equipment inventories unless otherwise specified by the Director.

312.8 – Upkeep and Maintenance: The Coordinators shall see that the building special education areas are kept in good condition for human occupancy, and call on maintenance staff, teachers, and students to this end.

312.9 – Student Records: Coordinators shall assist building principals in the record keeping system so that adequate records of attendance, courses taken, grades attained, and extra-curricular participation are kept on file.

320 – ALCOHOL AND DRUG ABUSE POLICE, ALL EMPLOYEES:

The UVSE Unit has a responsibility to maintain an atmosphere which will promote a quality learning environment. The misuse of alcohol and other drugs by one employee may endanger the safety and well-being of all other employees and all students. It is necessary that our employees be made aware of the danger inherent in making unwise choices about chemical use. Further, it is the responsibility of the school to intervene when the school's learning environment or the employee's ability to perform assigned duties is threatened.

320.1 – Procedure If Harmful Chemical Use Is Suspected:

1. When behavior that may indicate misuse of alcohol or drugs is observed a "Record of Behavioral Data" will be completed by the building Coordinator or Director. The Director will not attempt to make allegations or diagnose behavior beyond observed and reported behavior.
2. If accumulated information appears to indicate a high probability that the employee's job performance is endangered, the supervisor will either conduct an interview with the employees or turn the information over to the Director who will conduct the interview. At the interview, the employee will be asked to comment on their use of alcohol or drugs.
3. A formal Chemical Dependency Diagnostic interview and treatment, (if the report of the diagnostician indicates a need for treatment) may be made a condition of continued employment if the employee's job performance is adversely affected.
4. The school will make every effort to provide supportive assistance to those employees who return after completing a therapeutic regimen, realizing that behavior change in an unchanged environment is especially difficult.

400 – INSTRUCTIONAL PERSONNEL:

The Director and Coordinators shall be responsible for personnel selection with concurrence from the UVSE Board. Charged with the primary obligation of educating disabled children of the UVSE Unit, school officials are to secure teachers with the highest educational and personal qualifications possible. There shall be no restrictions relative to race, sex, color, or creed. Hiring officials of the Special Education Unit will consider the following in selection of instructional personnel: (As required by Title IX of the 1972 Educational Amendment; Title IV of the Civil Rights Act of 1963; Section 504 of the Rehabilitation Act of 1973; and Title II of the Educational Amendment of 1976.)

1. Ethical character and integrity
2. Scholarship and preparation in the field under consideration
3. Interest in students and a liking for people
4. Cooperative attitude toward fellow workers
5. Other qualities such as health, general appearances, and humanism, etc.

401 – Public Relations:

Public addresses, and/or demonstrations in workshops for monetary reimbursement shall be handled by the staff member at his/her own expense. Such types of public relations with Walsh and rural Grand Forks Counties without pay shall be cleared with the Director. The Director supports the above mentioned activities without pay and shall allow time for such activities. Inquiries from the press and other news media and press releases shall be brought to the attention of the Director whose signatures must be obtained.

402 – Staff Member Qualifications:

Special education personnel shall be hired on the basis of their qualifications regardless of sex, race, creed, religion, marital status, political preference, or previous residence.

403 – Taking Classes From a College During the Regular School Term:

It is possible that an arrangement can be made with the staff member's college to take a class or do course work while on the job. These arrangements shall be cleared in advance with the Director.

404 – Long Distance Telephone Calls:

Long distance calls shall be made from schools or office, in accordance with local school policies. Any long distance calls made for personal use shall be paid by the user.

405 – Materials:

Materials will be provided in accordance with by-laws. All assessment materials shall be ordered through, and vouchers and invoices approved by, the Director.

410 – Employment Procedures:

410.1 – Recruitment and Selection: Advertising of teaching positions for the UVSE Unit will be conducted by the Director's office with participation from the coordinators. The Director will furnish necessary information to by various placement agencies. All offers of teacher contracts must be signed by the UVSE Chairman and Business Manager before they become binding on the district.

410.2 – Application Procedures: Every candidate for a teaching position must submit a formal letter of application. Consideration for employment will be made when the letter of application and professional papers are on file.

410.3 – Interviews: All applicants for teaching positions in the UVSE Unit will be considered. After a screening, applicants will be selected for interview. Interviews will be at the applicant's expense. The Director, coordinators, and appropriate school personnel will conduct the interviews.

410.4 - Appointment of Position: The UVSE official offer to an applicant will be a contract. The Director's office will be charged with the responsibility of duly executing the contract offer to the teacher candidate. All candidates will be notified when the position has been filled.

420 – Compensation and Benefits:

420.1 – Salary and Extra-Curricular Assignment Schedule: See addendums. (Teacher Master Contract)

420.2 – Salaries: UVSE Unit instructional personnel shall be paid on the basis of the Unit's salary schedule as adopted by the UVSE Board. Warrants are to be issued according to contract specifications. Pay dates shall be on the 15th of each month.

420.3 – Salary Lane Changes and Years of Professional Experience: All teachers and non-certified ancillary staff hired by the UVSE Board will need to present written proof of total years of experience. College or University transcripts need to be provided to the Director of Special Education documenting college credits beyond their BS, BA, or MA degree by September 1st of each year.

420.3A – Policy for Educational Credit: The following guidelines will be used in determining the number of credit hours a teacher has earned.

1. Courses from any recognized college or university will be accepted.

420.4 – Health Insurance: See Teacher Master Contract.

430 – Employment Conditions:

The UVSE Board recognizes the importance of employment conditions and the direct bearing it has upon the quality and quantity of the classroom instruction.

430.1 – Hours of Employment: See Master Contract Policy #2.

430.2 – Preparation Periods: See UVSE Master Contract Policy #13.

430.3 – UVSE Staff Work Assignments Throughout the UVSE Unit: UVSE teaching staff and teacher aides based in a single building will perform similar duties as required of other school personnel during the normal school day.

430.4 – Line of Authority: UVSE teachers shall be directly responsible to the Principal of their respective buildings and UVSE Coordinators. Teachers shall consult with the principal and Coordinators regarding concerns or problems. If unresolved, the teacher may consult with the Director and activate the Grievance Procedure if desired. The doors for dialogue will never be closed but the proper procedure must be followed to avoid undue confrontations.

440 – Professional Staff Members, Roles:

The professional staff members must fill a variety of roles. It is virtually impossible to place these roles in individual categories, consequently generalized roles will be cited in this section.

440.1 – Knowledge of Policies and Regulations: Teachers shall be informed of and observe the rules, policies, and regulations of the UVSE Board and Administration.

440.2 – Professional Growth: Seek professional growth as prescribed in the DPI Special Education Guide I and the UVSE Master Contract.

---- All teachers teaching on lifetime or five year certificates shall have earned a minimum of 4 semester/6 quarter hours of college credit in the last five

years.

440.3 – Community Life: Teachers should contribute to community life in whatever capacity they feel comfortable.

440.4 – Outside Employment: Any additional employment must be approved by the Director during the contract period.

440.5 – Care of Property: Teachers are responsible for inventory to their specific teaching station, as well as equipment and furniture which is utilized by all teachers.

440.6 – Gifts: No teacher, administrator, or non-teaching person, acting in the capacity of purchasing agent for the school, may accept any gifts from a salesman or company regardless of the thought behind the gift.

440.7 – Relationship to Non-Certified Personnel: Teachers are required to evaluate and refer discrepancies in the work of non-certified personnel to the UVSE Coordinator and building principal. Teacher aides and UVSE secretaries are here to serve the teachers and students, but they are to accept orders from their supervisor.

440.8 – Professional Conduct: Teachers are expected to conduct themselves in such a manner as not to undermine their effectiveness as teachers of young people.

440.9 – Professional Appearance: The UVSE Unit encourages dress and grooming that model the teacher as a professional. Proper attire does influence students and does have an impact on the total effectiveness of the teacher in our school environment.

440.10 – Inventories: Teachers will be responsible for an annual inventory of non-expendable supplies, equipment, and furniture appropriated to their teaching station on a permanent basis.

450 – Staff Evaluations:

The UVSE Board and Administration are committed to a policy of providing for the formal and informal evaluation of all professional staff. All professional staff having less than three years of teaching experience shall have an evaluation completed by December 15th and March 15th. All professional staff with more than three years of experience shall have at least one evaluation completed annually no later than March 15th of each year. Staff shall be evaluated by the Director of Special Education, or designee. Individuals with contracts of more than one month in duration will be evaluated in writing.

451 – Employee Personnel Records: Personnel records shall be maintained in two areas. Those records required for payroll purposes and for record keeping under the Fair Labor Standards Act and other laws pertaining to payroll record keeping will be maintained by the business manager. All other payroll records will be maintained in the Business Manager's office.

The Director shall keep a personnel folder for each employee, certified and classified. The folder shall contain such information as is required by law and shall include performance evaluations. A record of the certificate held for all certified personnel and a record of access including the date of review and identity of persons reviewing the file.

Employment references should be returned to the author immediately following employment. Professional staff will have their transcripts on file at the UVSE Office. Staff members will be responsible to update their college transcripts.

The folder shall be maintained in the UVSE administrative office and shall be available during school hours for review by members of the public under the following procedures:

1. The person requesting to see the personnel file of any employee shall make the request to the Upper Valley Special Education office.
2. The Director shall make an appointment for the person to see the file within five (5) working days after receiving the request.
3. A Unit representative shall be present during the review of the file.
4. Copies of any documents in the file shall not be made available.
5. The employee will be notified that the file will be reviewed.
6. The Director may seek legal advice on matters pertaining to the review.

Records of medical treatment or use of employee assistance programs is not a part of the personnel record

and shall not be released without the written consent of the employee in accordance with North Dakota Century Code.

The administration with the staff member shall periodically review the materials in the personnel file and may remove and destroy irrelevant, inappropriate or outdated materials, including files of personnel separated from the district for more than seven years. Current employees shall be notified prior to the removal of documents from their file.

If the teacher is not satisfied with the administrator's decision of the review, the teacher may request, and must receive, a formal review of the placement of the material by the UVSE board. This review shall be at an open public meeting of the board in accordance with North Dakota Century Code.

452 – GRIEVANCE PROCEDURE FOR TEACHERS:

The UVSE Board believes that an effectively functioning grievance procedure is essential to good professional and community relationships and will directly improve the quality of professional services provided for students. Although formal (written) procedure is appropriate and should be used as necessary, the "spirit" of this policy is that grievances should typically be resolved between teachers and immediate supervisors, eliminating the need for a formal process.

Section 1. Objectives

- A. To ensure an opportunity for teachers to have unobstructed communication with their immediate supervisors, other administrators, and the UVSE Board with respect to grievances without fear of reprisal.
- B. To reduce the potential areas of conflict among teachers, administrators, and the UVSE Board.
- C. To encourage and assure the freedom of effective communication through recognized channels among teachers, administrators, and UVSE Board.
- D. To encourage the resolution of grievances as near the point of origin as possible.
- E. To contribute to the development of improved morale and effectiveness of the UVSE professional staff through an increased understanding of the Upper Valley Board policies which affect them.

Section 2. Definitions

- A. A grievance is an event or circumstance for which a teacher feels dissatisfaction and chooses to communicate the concern to his/her immediate supervisor. However, a grievance must be directly related to the terms of the teacher's individual contract with the UVSE Board, or concerns related to the terms of the negotiated agreement between the UVSE Board and any officially recognized teacher representative organization. A grievance must be in writing, give a clear and concise statement as to the specific provision involved, and must state the relief being sought.
- B. The word teachers as used in this policy means persons working in a professional position requiring certification and working within the public school system.
- C. The aggrieved means the teacher, parent, and students initiating the grievance, and/or a representative.
- D. Extension means a lengthening of the time limits specified in this agreement. This may be done by mutual agreement.
- E. Days refers to days in the time periods of this procedure and shall refer to working days. A working day is defined as any weekday not designated as a holiday by state law.

Section 3. General Guidelines

- A. In general, the nature of the problem should suggest the mechanism to be employed: a "grievance" should employ the grievance machinery, and a "complaint" should employ the complaint machinery. However, since the nature of specific concerns cannot be ascertained with assurance, crossover will be permitted at Level I. If the content of the "complaint" seems to be

more properly a “grievance”, the fact that a “complaint” was filed shall not preclude consideration as a “grievance” similarly, the fact that a “grievance” was filed shall not preclude consideration as a “complaint”.

- B. It is agreed that any investigation or other handling or processing of any grievance shall be conducted in such manner as to result in continuation of the instructional program and related work activities.
- C. In computing any period of time prescribed or allowed by procedures herein, the last day of the period so computed shall be counted, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.
- D. The filing or service of any notice or document herein shall be timely if it is personally served or if it bears a certified postmark of the United States Postal Service within the time period as specified in Section 2, 3, and 4.
- E. Where a specific administrator or supervisor is named in this policy (such as director of special education), it is assumed that his/her designee or deputy may serve in his/her place.

GRIEVANCE

Section 1. Grievance Guidelines

- A. Grievances shall not be valid for consideration unless the grievance is submitted in writing to the teacher’s immediate supervisor, setting forth the facts and the specific provision of the Negotiated Agreement or individual contract allegedly violated and the particular relief sought, within one year after the date of the first event giving rise to the grievance occurred. Failure to file any grievance within such period shall be deemed a waiver thereof. Failure to appeal a grievance from one level to another within the time limits herein provided shall decide the issue in favor of the aggrieved. The time limits, however, may be extended by mutual agreement.
- B. All decisions reached under this grievance procedure shall be filed with the directed, the aggrieved, and the appropriate immediate supervisor. Copies of the grievance proceedings shall be kept on file at the UVSE office.
- C. UVSE Board members, administrators, or teachers shall not discriminate against one another because of the exercise of their rights under this grievance procedure.

Section 2. Grievance Procedure

(Adjustment of Grievance)

- A. Level I An attempt shall be made to resolve any grievance in informal, verbal discussion between the grievant and their immediate supervisor (typically a coordinator).
- B. Level II If the grievance is not resolved through informal discussion, the teacher’s immediate coordinator shall give a written decision on the grievance to the parties involved within five (5) days after receipt of the written grievance.
- C. Level III In the event the grievance is not resolved in Level II, the decision rendered may be appealed to the director of special education, provided such appeal is made in writing within five (5) days after receipt of the decision in Level II. If a grievance is properly appealed to the director, the director or designee shall set a time to meet regarding the grievance within five (5) days after receipt of the appeal. Within five (5) days after the meeting, the director or designee shall issue a decision in writing to the parties involved.
- D. Level IV In the event the grievance is not resolved in Level III, the decision rendered may be appealed to the special education board, provided such appeal is made in writing within five (5) days after receipt of the decision in Level III. If a grievance is properly appealed to the special education board, the special education board shall set a time to hear the grievance within ten (10) days after receipt of the appeal. Within ten (10) days after the meeting, the special education board shall issue its decision in writing to the parties involved.

454 – Teacher Contracts:

The UVSE Board will follow all appropriate state and federal laws. Anything that is laws will be followed.

454.1 – Time for Renewal of Teacher’s Contracts: See North Dakota Century Code.

454.2 – Legislative Intent in Employment of Teachers – Notification of Discharge or Failure to Renew – Hearing: See North Dakota Century Code.

454.3 – First Year Teachers: See North Dakota Century Code.

455 – Teacher Employment:

455.1 – Certification: The UVSE Board will hire only teachers who hold valid North Dakota teaching certificates, which includes teachers with emergency certificates.

455.2 – Substitute Teachers: The UVSE Board agrees to hire as substitute teachers only those teachers who hold a valid North Dakota teaching certificate. Substitute teachers shall, whenever possible, be chosen from those who have preparation in that area of teaching.

Unless mutually agreed upon, no teachers shall be expected to fulfill the duties of another teacher who is absent by relinquishing all or any part of their preparation time or non-scheduled time.

455.3 – Substitute Pay, Extended Period: Substitute teachers will be paid according to the rate per day in the assigned school district for ten or less consecutive days for one assignment. Eleven or more consecutive days for one assignment will be paid at 80% of the Upper Valley Special Education base salary.

456 – Transfer:

456.1 – Voluntary: Teachers who desire to change an assignment, or to transfer to another building, may file a written request (including reasons) with the Director. Requests shall include the assignment change and the school to which they desire transfer. Requests for transfer or reassignment for the following year shall be submitted not later than March 1.

456.2 – Involuntary: Reassignment will be made when deemed necessary by the Director due to declining enrollments or other factors such as but not limited to program changes or reduction, funding provisions, or program improvements. In order for a voluntary or involuntary transfer of a staff member to take place, mutual agreement between the local district chief administrator and UVSE administration must take place.

457 – Reduction in Force Policy:

When in the sole and exclusive discretion and judgment of the Upper Valley Special Education Board,

a reduction-in-force is required. The administration shall attempt to accomplish this reduction by attrition.

457.1 – Director:

1. The reduction in force of the director shall be in accordance with state law.

457.2 – Coordinators:

Reduction in force for Coordinators shall be decided by the Upper Valley Special Education Board.

457.3 – Certified Teaching Staff

Reduction in force for the Certified Teaching Staff who fill a position as a teacher or as a social worker with a teaching certificate or who are not in a position of Director nor Coordinators, shall be decided by ... This does not include paraprofessionals with teaching certificates.

- a. Teachers assigned to a school district withdrawing from the Upper Valley Special Education Unit will be reduced first;
- b. Teachers not having a completed certificate for the position they occupy will be reduced next.
- c. Teachers least flexible to meet the staffing needs of the overall educational program will be reduced next. Flexibility means areas of certification, willingness to change or expand a role, skills (other than formal academic training), and additional academic training. The board shall have full discretion as to the evaluation and weight of these items.
- d. Teachers with the least demonstrated ability will be reduced next. Demonstrated ability will include evaluations and observations made by the Upper Valley administration, who may use job performance as observed by the local school district administrators.
- e. Teachers with the least number of years of continuous service with the Upper Valley Special Education Unit shall be reduced next.
- f. Teachers with the least number of years of special education service shall be reduced next.
- g. Teachers with the least number of years of total educational service shall be reduced next.
- h. If there still exists a situation where no differences exist for a reduction of teachers, the Upper Valley Special Education Board has the authority to make the decision.

Any certified teacher, nonrenewed as a teacher under the provisions of this policy, may request and shall be given consideration for teaching vacancies for which said teacher is qualified and which occur within nine months after receipt of written notice of the nonrenewal decision. It shall be the sole responsibility of said teacher to provide the Upper Valley Special Education Director with a current address. Any teacher who is offered re-employment hereunder and fails to accept the same within five days after it is offered, shall be deemed to have rejected said offer and is not entitled to further re-employment rights.

458 – Supervision of Student Teachers:

458.1 – Participation: The UVSE Unit will accept student teachers contingent upon the approval of the supervising teachers.

458.2 – Duties and Responsibilities of Student Teachers: Student teachers shall teach only in the areas in which they will be eligible for certification. Student teachers shall be provided with appropriate materials and supplies needed in the performance of teaching duties.

Student teachers and the college or university attended shall cooperate by providing each supervising teacher with information about the student teachers, including but not limited to, background, college records, or any special problems of which the supervising teacher and school administrator should be aware.

458.3 – Reimbursement: Any reimbursement made to the district by the student

teachers' college or university shall be paid to the supervising teacher.

459 – Release From Contract:

459.1 – Teacher's Release from Contract: Teachers may not resign to accept other positions during the term of their contracts. If teachers request release from their contracts, liquidated damages will be assessed as a release fee. During the month of June, there shall be no release fee. If request for release is made July 15 or later, a release fee of two and one-half percent (2 ½%) of the gross instructional salary must accompany such request. If the teacher is not released, the release fee shall be returned to the teacher. The release fee may be waived by the UVSE Board if the Board believes justified by the circumstances.

500-STUDENT POLICIES:

501- General Statement: The UVSE Unit will serve the needs of disabled children age 3-21 in accordance with state and federal rules and regulations. Policies and procedures under IDEA relating to procedural safeguards, evaluation procedures, and development of individual student programs are found in the Guidelines: The Special Education Process for North Dakota Schools, including attachments specific to the Upper Valley unit, and/or the Eligibility Document submitted to the North Dakota Special Education Department on October 1, 2000.

502 Assessment Responsibility: The UVSE Unit will pay for evaluations in all areas related to the suspected disability including: health, where appropriate; vision; hearing; social and emotional status; general intelligence; academic performance; communication, and motor abilities. The age of the eligible children shall be between 0 and 21.

1. Parents may voluntarily use their insurance to pay for evaluation (or other services). The UVSE unit will cover costs not paid for by the insurer.
2. Parents will assume such costs for a disabled child as they would if the child was not disabled. Personal items, including but not limited to hearing aides, eye glasses, routine medical expenses, physical exams, medications, and all items necessary for a non-disabled child, will be the financial responsibility of the parent.
3. The UVSE unit may withhold payment until a report of the evaluator's finding is received in the UVSE office.

Parent Reimbursement

Parents will be reimbursed for taking their child to evaluations requested by the UVSE unit at state rates upon parental request. Parents must stay overnight to collect for meals.

Parents must keep receipts. UVSE will reimburse for meals for one child and one adult for the actual cost or the reimbursement allotment, whichever is less. Lodging reimbursement will not exceed the state rate per night with prior approval from the UVSE unit.

To receive the reimbursement money, send the receipts along with the reimbursement form to:

Upper Valley Special Education
Box 272
Grafton, ND 58237

This form should be sent as soon after the evaluation as possible to insure more prompt payment. Bills are paid following the monthly meeting of the UVSE Board.

Summary:

1. UVSE unit will pay for evaluations we request to determine a child's special education need. Payment may be withheld until a report of evaluation findings is received in our office. We reserve the right to provide local evaluation services first before seeking outside assistance. If there is parental disagreement, appropriate independent evaluation procedures and/or due process procedures shall be followed.
2. Parents may voluntarily use their insurance or a similar third party payment such as medical assistance to pay the total bill or portion thereof.
3. UVSE will pay only for evaluation of a diagnostic nature and not for:
 - a) Treatment
 - b) Medication
 - c) Routine follow-up
 - d) Purely medical concerns unrelated to education
4. There should be no cost to the parent on education-related matters.

503 – Student Records

Family Educational Rights and Privacy Act:

UVSE policy regarding parent and student rights under FERPA are contained in the procedural safeguards section of the Guidelines: The Special Education Process for North Dakota Schools.

Employee and Third Party Access to Records: The following pertains to Upper Valley files and records: Information contained in student's educational records shall be disclosed to persons, agencies, institutions and organizations only with the prior written consent to the parent, except as follows:

- a. School district employees or agents who need to have access to student records in order to fulfill their assigned responsibilities may have access to that portion of the record which is needed for their work. This includes but is not limited to certificated staff, clerical staff, teacher aides, and student teachers.

Granting Access to Third Parties:

When the consent of a parent is required for someone to obtain information from a student's records. The consent must:

- a. be in writing,
- b. specify the records to be disclosed,
- c. identify to whom the disclosure may be made,
- d. be signed and dated by the parent.

The parent shall be provided with an opportunity to receive a copy of the record which disclosed at cost, if desired. Except for certificated staff to whom a student is regularly assigned, the school principal shall decide whether access to the records by an employee or agent is necessary for the performance of their work. Access shall be limited to that information which is needed.

504 - Collection and Maintenance of Special Education Records:

The Director of Special Education shall ensure that the staff under his/her jurisdiction receives periodic instruction and training regarding the privacy rights of students and parents. The procedures for collection, maintenance, accessibility, discrimination, and retention of student information shall be reviewed periodically for the staff by the Director of Special Education.

Student Special Education Records:

The Director of Special Education shall ensure that the staff under his/her jurisdiction receives periodic instruction and training regarding the privacy rights of students and parents. The procedures for collection, maintenance, accessibility, discrimination, and retention of student information shall be reviewed periodically for the staff by the Director of Special Education.

It is the policy of the UVSE unit to maintain student special education records necessary for the educational welfare of students, for orderly and efficient operations, and as required by law. Such records shall be current, clear, accurate, concise, and respectful of the privacy rights of students and their parents. Records shall be maintained in a secure and confidential manner.

All special education records containing information which directly relates to, and individually identifies a student or former student, is part of the student's single education file. This would also apply to multiple folders that may be kept separately within various buildings throughout the region. Information that would not be considered part of the student's single education records would involve material contained within any professional staff member's working folder.

The special education records shall be maintained at the school which the pupil is currently attending or last attended. The building principal and/or the special education case manager shall be responsible for the maintenance, review, and release of pupil records. In most cases an additional/duplicate of records are on file at the UVSE office. Again, these records are considered to be part of the student's single education record.

Working folders refers to that personally identifiable information about students which is maintained within the sole possession of the special education staff member. This information is not accessible to or revealed to any other person. Working notes, contained within the working folder, are not considered to be a part of the student's single special education record. Therefore, the contents within a working folder are not accessible to parents for review. Any information within the working folder which is shared shall become public record and will be accessible for parent review.

505– Release of Information: The following pertains to Upper Valley Special Education files and records:

1. A student and his/her parents shall have access to their records.
 - a. A student or parents should be given the opportunity to see the student file at any time. The only time a parent can be denied access to student records is when a court order contains a clause which denies the parent access to student records. It is the
 - b. responsibility of the parent to notify school authorities of the court order and also supply a copy of such order.
 - c. It is important that the principal or counselor interpret the record to the student or parent whenever possible realizing this will not always be feasible.
 - d. A copy of the record may be furnished without cost at the request of the parent or the student. The words "Personal Copy" should be written in large letters across the middle of the record so that it could not be presented as an official record.
 - e. If a parent asks to carry the record to another school district, this request should be refused. The official record with the school seal must be sent directly to a school or agency. However, we could not deny the parent a personal copy of the record. This includes the original copy (blue) of the immunization certificate.
 - f. It is unlikely that a parent would request several personal copies of a record at any one time but if they do, a charge of 20 cents per page should be made for each additional copy.
2. When a request for a file is made by another school district, it will be our policy to forward all materials in the file to that district. The original copy of the permanent record must be retained.

3. When a request is received from an agency for information from a student's cumulative folder, the folder also with the request and a signed release form will be forwarded to the Director. He will select the appropriate items and send it to the agency and return the folder to the school.
4. In the case of a subpoena, the principal shall notify the parent before releasing the record. If the principal cannot locate the parent, the judge who issued the subpoena should be informed of the situation. The parent may, through an attorney, challenge the use of records in court. However, the school district is required by law to release the records regardless of parental objection.
5. Written consent of the student or his/her parent must be received prior to the release of any personally identifiable records of files or personal information contained therein to any individuals, agencies, or organizations other than those indicated above. Specifically:
 - a. A form requesting information about a student provided by an employer can be completed, however, only factual materials should be given.
 - b. After a referral has been made to an agency, it is often necessary to share information about the student with that agency. The parent of the student, of course, must consent in writing to the sending of an official record, but professional ethics and an open understanding with the parent should dictate the type and extent of any other communication.
 - c. Occasionally, a "security check" is made on a student for a particular job especially in the armed forces. The school record should be made available only upon written authorization by the student. A personal reference could be given by a staff member who knew the candidate, but this would not be a part of the school record.

506– Destruction of Data:

When a student has completed his special services program for whatever reason, (graduation, transfer, drop-out, death, etc.) the student's special education file will be collapsed into his regular cumulative school file. Records shall be retained for five years after the student leaves special education services. After five years have lapsed, the UVSE office staff will notify the student or parent of the intent to destroy the records. Records will be destroyed after 30 days if the student/parent does not contact the UVSE office requesting the records. A minimum record will be maintained for all records which are destroyed or given to the student/parent. This record will include: identifying data, reason and date of initial referral, services provided, and exiting information.

507– DISCIPLINE: Suspension and Expulsion:

Policies governing the discipline of students with disabilities attending UVSE school districts shall follow federal rules and regulations outlined in the *Guidelines: The Special Education Process for North Dakota Schools* and the Upper Valley unit Eligibility Document. These policies should be implemented in conjunction with local school district policy, and North Dakota Century Code regarding suspension and expulsion.

508– SURROGATE PARENTS POLICY:

At such time that a child is enrolled in an Upper Valley Special Education program and meets the criteria *under the North Dakota Guidelines: Educational Surrogate Parent*, a surrogate parent will be appointed to insure that the rights of the child are protected.

1. When no parent, guardian, or person acting as a parent can be identified;
2. When the parent's whereabouts are unknown after reasonable efforts have been made to locate the parents;
3. When a child is the ward of the State.

At such a time the identified conditions occur, the local building administrator should contact the UVSE Director

and request a surrogate parent. Prior to serving as a surrogate parent, the individual will participate in training outlined in the Training: North Dakota Educational Parent Inservice Training manual.

Surrogate parents to be reimbursed by Upper Valley Special Education as follows:

1. \$7.60 per hour for the time spent in training and attending meetings on behalf of the child.
2. State rate per mile for related travel;
3. In-state meal allowance.

509 – INTERVIEW OF STUDENTS BY OFFICIALS AND OTHER AGENCIES: The following pertains to Upper Valley Special Education programs outside of school district buildings:

Any persons wanting to have access to a student must have parent permission to do so before seeing the child. This permission must come in the form of a signed document by the parent or a documented phone call.

Normally, parents shall receive advance notice of any interview with their child and be invited to attend. If no parent is present at an interview, a member of the school professional staff will be present. This presence is a prerequisite to the granting of an interview with a student during the school day and/or on school property.

An exception to the requirement of parental notification exists when an alleged case of child abuse or neglect is being investigated and a parent is suspected of being an abuser or contributing to the affidavit confirming that the interview is for the purpose of investigating a report of suspected child abuse or neglect.

The affidavit shall be filed in a special sealed file in the Director's office. The school official present at the interview shall not disclose the contents of the interview to anyone, including the child's parents.

NOTE: Investigations by police officers are governed by the provisions of Policy FHBB and not include any waiver of the requirement that parents be promptly notified and be allowed to be present at the conference.

510 – STUDENTS

SIGNIFICANT CONTAGIOUS DISEASES

EDUCATION

STUDENTS

The intent of the instructional program on significant contagious diseases is to provide information about the diseases, methods of transmission, the means of protecting against contracting the diseases in an institutional setting, the use of universal precautions, and prevention appropriate to specified grade levels. Instruction will begin in Grade K and continue through Grade 12.

Appropriate curriculum will be designed including a scope and sequence to assure that all students receive age-appropriate education. The Director is charged with recommending revisions in the program to the Board to update and modify the curriculum as new information about significant contagious diseases is made available. Any curriculum and materials developed for use in this program will be approved for medical accuracy by the Department of Public Instruction and/or the State Department of Health according to the guidelines furnished by the Center for Disease Control.

Prior to the start of the student instructional program, and at any time thereafter, parents and guardians of students who will be involved with the curriculum and materials will have an opportunity to preview the curriculum and materials in a specific program being presented. Thereafter, any parent or guardian may review the curriculum and

materials at any time including any revisions in the program to update and modify the curriculum as new information about significant contagious diseases is made public.

EMPLOYEES

On an annual basis, all employees of the school district will receive appropriate training which addresses significant contagious disease prevention. The training will be presented by a health professional or someone specifically qualified in education for the prevention of significant contagious diseases. Training will include the proper use of universal precautions.

Those employees designated to teach significant contagious disease prevention to students will receive additional in-service from qualified health education professionals.

CONFIDENTIALITY

No employee or official of the Upper Valley Special Education Unit may inform any individual of an affected individual's infection. No employee or official may release any information to the public either confirming or denying the presence within the institution setting of a person who has contracted a significant contagious disease. All information given to employees or officials of the unit by an affected person, their parent or guardian, or their personal physician shall remain confidential.

ATTENDANCE, EMPLOYMENT, AND CONTRACTS

No person may be denied admission as a student, a contract as an independent contractor, or employment solely because they have, or they are perceived to have, a significant contagious disease. The personal physician of the affected individual shall be the sole decision maker as to whether the individual constitutes a public health threat or the ability of the individual to continue in school (except as provided below) or perform their duties.

When a student's personal physician or, in the case of a student who is defined as disabled under the Individuals with Disabilities Education Act or NDCC Chapter 15.1-32, the multidisciplinary team, determines that the student is unable to participate in regular classroom instruction, either reasonable accommodations, special provisions, or an individualized education program will be provided. The administrator shall establish procedures for the development of special provisions.

When an employee's, prospective employee's, or independent contractor's personal physician determines that the employee, prospective employee, or independent contractor cannot perform their duties, the Unit will consider and implement reasonable accommodations to allow the affected individual to become or continue as an employee or contract or continue an existing contract as an independent contractor.

UNIVERSAL PRECAUTIONS

The Upper Valley Special Education Unit will use universal precautions as standard procedure in the care and maintenance of school property and in administering first aid or otherwise handling emergencies.

DESIGNATION OF SPOKESPERSON

The Director is designated as the person to receive information concerning the status of students, employees, and independent contractors from their physicians. The Director shall be the official spokesperson for the institution when information concerning an affected individual becomes public and may not delegate this duty. The Director shall develop procedures that protect against possible breaches of confidentiality. The Director and/or coordinator may request assistance from the Department of Public Instruction or State Department of Health in developing a plan for conflict resolution.

DISCRIMINATION

It shall be a violation of school policy for any student, employee, or official to harass or discriminate against any affected individual within the institutional setting on the basis of having been diagnosed as having a significant contagious disease(s). No harassment or discrimination will be tolerated in any school building, at any school function, or on any school property.

DEFINITIONS

1. "Affected person," "affected individual," or "affected student" means an individual who has been diagnosed by a physician as having contracted a significant contagious disease.
2. "Decisionmaker" is the affected person's personal physician. However, whenever an affected student also has a disability as defined under the Individuals with Disabilities Education Act, 20 U.S.C. 1413 or the North Dakota Century Code Chapter 15.1-32, the decisionmaker is the multidisciplinary team provided for under subsection 4 of North Dakota Century Code section 15.1-20-02.
3. "Employee" means any person employed by the institution including licensed and non-licensed personnel.
4. "Governing body" means the board.
5. "Independent contractor" means any person or entity who is free of control or direction over performance of the service provided both under the contract and in fact, who renders service outside the ordinary course of business or outside of the place of business of the contractor and who is engaged in an independently established trade, organization, profession, or business.
6. "Individualized education program" denotes a specialized education plan created in compliance with 20 U.S.C. 1413.
7. "Institution" means this special education unit.
8. "Reasonable accommodations" is as defined by subsection 16 of North Dakota Century Code section 14-02.4-02 or U.S.C. Section 794.
9. "Significant contagious disease" includes cytomegalovirus (CMV), hepatitis B (HBV) and human immunodeficiency (HIV) infection. The local board of health or the state health officer may determine that other diseases are significant contagious diseases.
10. "Special provisions" are individually tailored education decisions designed to meet the needs of students requiring unique accommodations to ensure an educational opportunity. Special provisions are directed to students not covered by an individualized education program.
11. "Universal precautions" means protecting one's self from exposure to blood or body fluids, through the use of latex gloves, masks, or eye goggles; cleaning blood and body fluid spills with soap and water; and then disinfecting and incinerating or decontaminating infected waste before disposing in a sanitary landfill.

Cross Ref:	Policy DAB Policy DBB	Recruitment Recruitment and Selection of Instructional Staff
	Policy DCB Policy FBBB/GBEI Policy GBEBD	Recruitment and Hiring Education of Exceptional Students Teaching about Aids

Legal Ref:	20 U.S.C. 1413 Individual with Disabilities Education Act USC 29, Section 794 Americans with Disabilities Act USC 29, Section 504 Rehabilitation Act of 1973 NDCC 14-02.4 Discrimination NDCC Ch. 15.1-15 Contracts of Teachers and Administrators NDCC 15.1-20-02 Compulsory attendance – Exceptions NDCC 23-07-16 Child having contagious or infectious disease prohibited from attending school - Exception NDCC 23-07-16.1 School district to adopt policy relating to significant contagious diseases
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600 – NON-CERTIFIED PERSONNEL: shall include: Secretaries and Teacher Aides. All non-certified personnel are “at will” employees.

601 – Secretaries:

601.1 – Qualifications: Secretaries must have general secretarial skills and such other capabilities as described in job description.

601.2 – Duties and Responsibilities: Secretaries will carry out duties as required by individual office needs and those described in the job description.

601.3 – Wages: As determined by the UVSE Board.

1. Full-time shall consist of 35 hours per week, 7 hours per day, paid monthly.
2. Over-time – time and a half over 40 hours/week.
3. Part-time – paid hourly once a month.

601.4 – Fringe Benefits of Full-Time Secretary:

1. Income protection insurance.
2. Sick leave – 1 day per working month accumulative up to 60 days.
3. Eleven paid vacations days as follow:
 - a. New Year’s Eve
 - b. New Year’s Day
 - c. Good Friday
 - d. Memorial Day
 - e. July 4th
 - f. Labor Day
 - g. Veteran’s Day
 - h. Thanksgiving
 - i. Friday after Thanksgiving
 - j. Christmas Eve Day
 - k. Christmas Day

602 – Aides: (Included in this category are teacher aides)

602.1 – Qualifications: These are determined by the special education classroom needs.

602.2 – Wages: Wages are determined by the UVSE Board and subject to their change.

602.3 – Fringe Benefits:

1. Sick leave – five days accumulative up to 20 days.
2. Personal leave – two days noncumulative.
3. Bereavement – one day.

602.4 – Duties and Responsibilities: Duties vary with classroom needs.

603 – Vacation Policy for Secretaries Only:

All full-time (12 month) non-certified employees of the UVSE Unit shall be entitled two (2) weeks, 10 working days paid vacation for their first five (5) years of employment within the system, thereafter they shall receive one (1) additional day of vacation per year up to a total of three (3) weeks, fifteen (15) working days paid vacation per year maximum.

Vacation time may not be carried over from one year to the next.

604 – Employment Procedures:

604.1 – Vacancies: All vacancies on the non-certified staff will be advertised in the local paper and through other appropriate media.

604.2 – Applications: Persons interested in applying for a vacancy must submit a letter of application to the Director’s office.

604.3 – Interviews and Selection:

1. No person will be hired without a personal interview with the director, designee. Final decision in the hiring will remain with the UVSE Board upon recommendation of the school administration.
2. All applicants will be promptly notified of their selection or non-selection.

North Dakota Century Code References

1.	Term of Board		15.1-09-02
2.	Business Manager:		
	Appointment		
	Duties		15.1-07-21
3.	General Powers of Board		15.1-09-33
4.	Board Members Compensation		15.1-09-06
5.	Special Meetings		15.1-09-30
6.	Negotiations:		
	Representative Organization		15.1-16-10-11
	Notice of Intention to Negotiate		15.1-16-11
7.	Director:		
	Evaluation		15.1-14-13
	Renewal		
	Discharge		15.1-14,15,16,17
8.	Definition of Teacher		15.1-16.01
9.	Medical Records of Employees		44-04-18.1
10.	Open Public Meeting		44-04-19
11.	Teacher Contracts:		

Time for Renewal	15.1-15-04
Notification of Discharge or Failure to Renew-Hearing	15.1-15-06
First Year Teacher	15.1-15-02

Appendix I

Special Education Board Evaluation Form
Upper Valley Special Education Organizational Plan and By-Laws
LEA Organizational Chart

Appendix II

copy of current Master Contract

Appendix III

copy of a teaching contract form
copy of a Teacher's Aide contract form

Appendix IV

Paraprofessional's Work Evaluation
Supervisor's Work Style Inventory
Paraprofessional's Work Style Inventory
Director of Special Education Evaluation Form-Formative
Director of Special Education Evaluation Form-Summative
Upper Valley Special Education Personnel Evaluation Report

Appendix V

ND State Report of Suspected Child Abuse or Neglect form

Appendix VI

listing of unit school district administrators and phone numbers

Appendix VII
FERPA Notice form

TOOLS

- T1.0 Audiological Evaluation Referral*
- T2.0 Classroom Observation*
- T3.0 Extended School Year*
- T4.0 Functional Behavior Assessment*
- T5.0 Health Plan*
- T6.0 Inservice Request*
- T7.0 Picture Release Instructions*
- T8.0 Picture Release Form*
- T9.0 Requisition Form*

TI.0

Audiological Evaluation Referral

Student Name: _____

School: _____

Grade: _____

Parent(s) Name(s): _____

Address: _____

Phone Number: _____

UVSE Staff Making Referral: _____

Complete all of the above information and forward to Bette Nelson (bette.nelson@k12.nd.us) at Upper Valley Special Education, 801 5th Avenue SE, Devils Lake, ND 58301-3649. A referral will be made to Brady Ness, Audiologist.

T2.0

**Upper Valley SPECIAL EDUCATION
Classroom Observation**

Student: _____

Class: _____

Instructor: _____

Date: _____

Grade: _____ **Time:** _____

Area of Concern: _____

Medical: _____

Observation by: _____

(Not the classroom teacher.)

Classroom Environment/Setting (seating, distractions, lighting, overall activity, etc.)

Activity (What is happening today?)

Student Preparedness (materials, completed assignment, open the book, etc.)

Participation (volunteers answers, asks questions, works independently, initiation/completion, etc.)

Behavior (Different than others'?)

Classroom Observation - (continued)

On-Task (% of time on-task, pays attention, works independently, etc.)

Modifications Offered by Teacher

Assignment Given (written on board, verbal, repeated more than once, given before the end of the period)

Work Sample (If appropriate, get it after class and attach it to this form.)

“Teacher Pleasing” Behaviors (congenial, polite, pay attention, sit up/slouch, stay awake, appear interested, etc.)

Strengths

Area(s) of Concern

How is the (suspected) disability affecting classroom performance?

T3.0

**Upper Valley SPECIAL EDUCATION
Extended School Determination Form**

Determining Extended School Year (ESY) Programming

- 1. Does the student have a current IEP? Yes No
- 2. Will the learning that occurred during the school year be significantly jeopardized if ESY services are not provided? Yes No

If the answer to either 1 or 2 is no, stop here – the student would not be appropriate for ESY. If the answer to both is yes, proceed to further determination either appropriateness of ESY services and/or focus of those services.

- 3. Identify progress toward the current goals and objectives that are being considered for ESY programming for reinforcement of skills (attach graphs, charts, data, progress reports, etc.): _____

- 4. Identify specific instances of regression and lack of recoupment or recent behavioral/medical problems that impact performance: _____

If either of these cannot be documented stop here – ESY is not appropriate for this student.

If these areas are appropriately documented, complete both parts of item #5 before May 1 and turn it in to the UVSE central office.

- 5. Identify which goals and objectives require ESY programming: _____

(Need to be based on documented regressive/recoupment data).

How many minutes per week were targeted to each objective: _____

T4.0

FUNCTIONAL BEHAVIOR ASSESSMENT

Student_____	DOB_____	Grade_____
Teacher_____	School_____	
Plan case manager_____	Phone_____	
IEP: Y N	Plan start date	
Team will reconvene every_____ Days to monitor plan.		

1. What behaviors does the student exhibit that are different from those of the same-age peers?

2. When is the student most likely to engage in the problem or inappropriate behavior?

3. What specific events appear to be contributing to the student’s problem behavior?

4. What function(s) does the problem behavior serve for the student?

5. What might the student be communicating through problem behavior?

6. When is the student less likely to engage in the problem behavior?

Does the student’s behavior problem persist despite consistently implemented behavioral management strategies?

7. Does the student's behavior place him/her or others at risk of harm or injury?

8. Have the student's cultural norms been considered relative to the behavior(s) in question?

9. Do medication or other interventions affect the behavior?

10. Does the student's disability affect his/her ability to control the behavior?

11. Does the student's disability affect his/her understanding of the consequences of the behavior?

12. What accommodations are necessary for instruction and testing?

Team members and their responsibilities for implementation

Member	Responsibilities
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

T5.0

**Upper Valley SPECIAL EDUCATION
Health Plan**

Health Plans are to be used when a student's condition does NOT qualify him/her for Section 504 of the Rehabilitation Act of 1973. The Act defines a person with a disability as anyone who:

1. Has a mental or physical impairment which subsequently limits one or more major life activity (major life activities include activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working);
2. Has a record of such impairment; or
3. Is regarded as having such impairment.

Student: _____ Effective Date: _____

Birth Date: _____ School: _____ Grade Level: _____

Transition Principal: _____

Parents: _____

Address: _____ City: _____ Zip: _____

Work Phone: _____ Home Phone: _____

Physician: _____ Phone: _____

Health Plan Case Manager: _____

Health Care Concern: _____

Health Care Plan: _____

Interventions and Procedures: _____

Necessary Training: _____

I have read and approve the above health care plan for _____
(Student Name)

We (I) will notify the school immediately if the health status of _____
(Student Name)

changes, we change physicians, or there is a change of cancellaton of the procedures.

Parent/Guardian Signature: _____

Review Date: _____

cc: All staff involved with said child:

T6.0

Upper Valley SPECIAL EDUCATION
801 5th Avenue SE
Devils Lake ND 58301-3649

INSERVICE REQUEST

NAME: _____

HOME ADDRESS: _____

INSERVICE TITLE: _____

INSERVICE LOCATION: _____

DATE OF INSERVICE: _____

Requested Reimbursement		Amount Requested	Approved by Director
1.	Registration		
2.	Mileage		
3.	Room		
4.	Meals (Reimbursement is for overnight travel only)		

SPECIAL NOTATIONS: _____

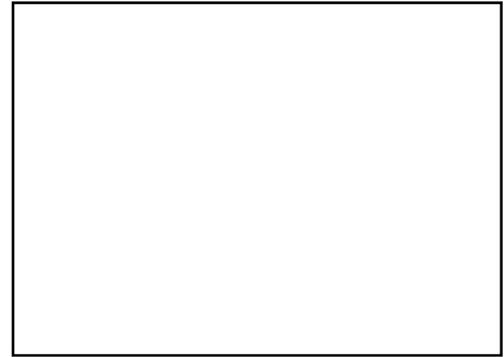
GRADUATE CREDITS OFFERED: _____

CEU'S OFFERED: _____

Staff Signature

Administrator Signature

Administrator Signature



T7.0 Picture Release Form

- A. *Purpose: To document parental/guardian permission to photograph or video tape their child for purposes relative to education.*
- B. *Used by: All special education personnel*
- C. *Prerequisite to: Taking pictures or videotaping a student*
- D. *Copies to: The original copy goes in the student's cumulative/special*

education folder. Additional copy to parent/guardian.

- E. *It is the practice of the UVSE central office to occasionally use video equipment to tape individual students. The following are examples of some of the uses:*

1. *Initial evaluations of new students*
 2. *Monitoring individual student progress*
 3. *Staff study of individual student behavior*
 4. *The collection of data to accompany referral information to a specialist(s)*
 5. *Other (specify): _____*
-
-

When videotaping is used with an individual child, other than for student instructional purposes, written permission will be obtained in advance. Tape obtained in this manner will be treated in the same manner as an individual student record. (NOTE: If the actual tape is not in the file, its location should be noted on the student's Document Locator.)

T8.0

**Upper Valley SPECIAL EDUCATION
PICTURE RELEASE FORM**

DATE: _____

STUDENT: _____

ADDRESS: _____

DOB: _____

GRADE: _____

SCHOOL: _____

PHONE: _____

PARENTS: _____

PARENTS' ADDRESS: _____

PARENTS' PHONE: _____

I _____ hereby authorize Upper Valley Special
(Please Print)
Education to photograph _____ for the following purposes:
(Please Print)

CHECK ALL THAT APPLY:

- _____ Brochures
- _____ Slide/Tape Presentations
- _____ Other _____
- _____ Video Tape – These may be used for:
 1. Initial evaluations of new students
 2. Monitoring individual student progress
 3. Staff study of individual student behaviors
 4. The collection of data to accompany referral information to a specialist(s)
 5. Other (specify): _____

I understand that the photographs taken will be utilized only for the purposes indicated relative to Upper Valley Special Education.

Please sign and return this form as soon as possible.

Signature of Parent/Guardian

Date

This release is in effect for one year from the date of signature

T9.0

Upper Valley SPECIAL EDUCATION REQUISITION FORM

801 5th Ave SE

Devils Lake, ND 58301-3649

Phone: (701) 662-7690 Fax: (701) 662-7684

Staff _____

Date _____

Use a separate form for each company you order from. Please print or copy this form as needed

Name and Address of Company				
Phone Number of Company				
Fax Number of Company				
Web Site of Company				
Catalog Order #	Qty.	Item Name	Unit Cost	Total
For office use: Purchase Order Number _____		Sub Total		
		Estimated Shipping Cost		
		Total Cost		

Upper Valley Special Education Unit

PO Box 272
Grafton, ND 58237

PHONE (701) 352-2574
FAX (701) 352-0188

Upper Valley Special Education
COMPREHENSIVE GENERAL PLAN

2016-2017

1. PURPOSE OF THE COMPREHENSIVE GENERAL PLAN

The purpose of this Comprehensive General Plan is to identify and define the collaborative approach to Individuals with Disabilities Education Act (IDEA) compliant programming and provision of services to students with disabilities ages 3 through 21 in school districts within the boundaries of the Upper Valley Special Education unit as required by the *North Dakota Administrative Rule: §67-23-01-02*.

2. DESCRIPTION OF THE UNIT AND ITS MEMBER DISTRICTS:

Upper Valley Special Education (UVSE) is a special education cooperative that includes 9 member school districts in 3 counties. UVSE serves over 600 students and works with more than 150 professionals and para-educators to make the programs successful. Our main office is located at 516 Cooper Avenue Grafton, ND. This office houses the offices of the UVSE Director of Special Education, Business Manager, Administrative Assistants, and, two Special Education Program Coordinators. All of these staff work with our schools to assist in meeting the unique needs of the special education students we serve as well as to provide consultation and collaboration to both general education staff and special education staff throughout the unit.

Public school districts within the UVSE unit include:

<u>Rural Grand Forks</u>	<u>Walsh County</u>	<u>Pembina County</u>
Larimore District 44	Grafton District 3	Cavalier District 6
Manvel District 125	Minto District 20	
Emerado District 127	Fordville/Lankin District 79	
Midway District 128	Park River Area District 8	

Nonpublic schools within the UVSE unit include:

- Forest River Colony School
- Thomas Moore Academy
- New Testament Baptist Christian School
- Pleasant Valley Christian School

UVSE was first organized as a multi-district special education unit in March, 1980 and has continued to serve schools in the Tri-County area of North Dakota since that time. The original members of the unit were Grafton, Park River, Midway, Pisek, Minto, Nash, Edinburg, Adams, Lankin, Fordville, Manvel, Thompson, Emerado, Arvilla, Northwood, Walshville, and Larimore.

Original Board Members:

- Grafton and Nash: Mrs. Alida Goodman, Grafton
- Larimore and Emerado: Principal Monte Wittman, Larimore
- Northwood and Thompson: Supt. Robert Sheppard, Northwood
- Midway, Manvel, Rye, Turtle River LeVant: Orvis Haugen, Midway
- Park River and Edinburg: Principal Richard Holand, Park River
- Lankin, Pisek, Adams, and Fordville: Supt. Eugene Kachena, Pisek
- Minto and Walshville: Matthew Coffey, Minto

UVSE started with 43 Staff members. Each school district in the county was assessed \$2.00 per student to defray the cost of the speech program and \$500.00 for the special education class being held in Grafton.

STRUCTURE, ORGANIZATION, AND POWERS OF THE BOARD



specific federal regulations to assure that free and appropriate services are made available to all children with disabilities in the least restrictive educational environment. To maintain compliance with these requirements, UVSE unit staff will conduct internal monitoring and report results to administration of each of the member districts.

The UVSE administrative staff will develop and conduct trainings based on the overall results of the internal monitoring, as well as frequently asked questions and state/school improvement plans, to ensure continuous compliance. UVSE administrative staff will also meet with case managers individually to assist with specific concerns or issues.

Indirect Services: The UVSE Director, Business Manager, and Administrative Assistant provide services that are not often viewed as services for a specific member district. These services, are however, imperative to maintain the overall business requirements of the special education unit.

The Unit Director is responsible for the overall operation of the Unit, which includes but is not limited to matters related to: personnel, students, administration, partner agencies, parents, and budget/financial matters.

The Business Manager's duties include all budgeting, contracts, and other funding responsibilities of the unit. The business manager, in conjunction with the Unit Director, develops all annual budgets, including the IDEA B budgets, and contracts for employees and service providers throughout the unit.

The Administrative Assistant has a number of important roles within the unit. These include: responsibilities to administration in the special education office, assisting with organization of trainings and materials, conducting internal monitoring, assisting schools and staff with our web-based case management system, providing guidance and submitting Medicaid reports, conducting compliance reviews, completing data reports, notifying district staff of monitoring concerns in conjunction with unit coordinators, and other duties as required.

UVSE administrative staff members (coordinators) offer one-to-one consultation with district administrators, case managers, educators, and related service professionals. These consultations include concerns specific to special education paperwork, IEP processes, timelines, parent relationships, and legal concerns. In addition to the federal requirements, trainings also include disability specific educational and behavioral strategies, residential placements, school programming needs and assistive technology recommendations.

Direct Services as an IEP Team Member: UVSE staff members include special education teachers, speech-language, occupational, and physical therapists, and program coordinators who conduct evaluations as required by IEP team questions and concerns and assist with IEP development and management as necessary. These staff members are involved in pre-referral, evaluation, post-evaluation and IEP development processes as full team members. Some staff members may be invited on a consultative basis rather than on a direct service basis.

Direct Services: UVSE has a number of staff members who offer direct services to students in the classroom setting. These staff members include physical therapists, speech-language pathologists, speech language pathologist assistants, and occupational therapists. Each of these staff members works directly with students with disabilities as determined by the IEP team members and detailed in the students' IEPs. These staff members not only provide direct services to students but also train building level staff on strategies, current research, and paperwork requirements to ensure individual student success and regulatory compliance.

Contractual Services: UVSE may contract for services as needed if the unit is unable to fill open positions.

5. UNIT POLICIES AND PROCEDURES:

UVSE is required to implement all ND Department of Public Instruction (NDDPI) special education policies and procedures as described in the NDDPI guidelines. The NDDPI developed these state guidelines exclusively from the IDEA (2004) federal regulations; therefore, UVSE follows all federal and state regulations. All staff will have access to a digital copy of the UVSE Policies and Procedures Manual as well as the Eligibility Requirements

document on the website at <http://www.uvse.org/>. The Comprehensive General Plan will be added as an Appendix item to the UVSE Personnel Policies and Procedures Manual to be reviewed annually by the UVSE Board.

6. PROCEDURES FOR WITHDRAWING OR JOINING UVSE UNIT.

Application for Admission to Membership: A school district wishing to join the Upper Valley Multi-district Special Education (UVSE) Program must comply with the following requirements:

1. Apply for membership on or before January 1st of the school year prior to the school year for which it seeks admittance;
 - a. Obtain authority for the request to join by majority vote of its local school board;
 - b. Notify the UVSE Board of the request in writing;
 - c. Maintain the minutes of all Board actions for review by the Department of Public Instruction;
 - d. Agree to comply with all state and federal requirements, including those prescribed by IDEA and its regulations, for providing a free appropriate public education to all disabled children residing within the school district's boundaries.
2. Withdrawal from UVSE Membership: A member school district wishing to withdraw its membership in UVSE must comply with the following requirements.
 - a. Obtain authority for the withdrawal by majority vote of its local school board;
 - b. Submit written notice of its intent to withdraw to the UVSE Board, on or before March 1st prior to the school year in which it intends to withdraw from membership in UVSE; AND
 - c. Submit to the Superintendent of Public Instruction a timely plan, for providing educational and related services, to all disabled children residing within its boundaries.
 - d. Dismissal from Membership: A member school district which falls or refuses to comply with the requirements of IDEA may, after being given reasonable notice and an opportunity to correct the deficient performance by the UVSE Board, be dismissed from membership by 2/3 approval of the members of the UVSE Board.
3. Alternatives to Dismissal from Membership
 - a. Mediation between UVSE and the local school districts;
 - b. Request by UVSE to the State for commencement of a due process hearing; or
 - c. Commencement of a legal action by UVSE for enforcement of the provisions of this contractual agreement.

7. MEMBER DISTRICT AND UVSE AGREEMENT OF RESPONSIBILITIES:

The primary justification for the formation of the Upper Valley Special Education Unit is based on student need. The school districts that participate in UVSE are each dedicated in providing their students with special education and related services as required based on individual student need and the requirements of the Individuals with Disabilities Education Act (IDEA, 2004).

Recent FERPA regulatory changes addressed numerous issues, including data sharing. The new regulations expanded the requirements for written agreements and enforcement mechanisms to further enhance evaluations

that can enhance program effectiveness, facilitate research into what works and doesn't, and increase the accountability of those receiving or accessing the data. Due to these changes, written agreements are now mandatory when sharing data without consent under both the studies exception and the audit/evaluation exception. This Memorandum of Understanding (MOU) serves as the written agreement of the understood data sharing between the UVSE unit and the school district.

Member Districts will employ paraprofessional staff and maintain jurisdiction over their local staff and special education programs, but will have full access to technical assistance and service coordination from the Unit staff. Each school district shall provide special education and related services as a single district and as a member of a multidistrict special education unit in accordance with the NDCC §15.1-33.

Upper Valley Special Education will employ a director, business manager, administrative assistants, program coordinators, occupational therapists, physical therapists, speech/language pathologists, speech/language pathology assistants, and itinerant staff that serve schools throughout the unit. UVSE may also hold additional contracts for staff when required and as necessary. All special education teachers will be under the Upper Valley teaching contract and salary schedules. All paraprofessionals, aides, and/or teacher aides, if needed to perform special education duties, will be hired by the local school districts. Special Education staff hired by Upper Valley Special Education will be evaluated by Upper Valley Special Education administration with input from local school building administrators.

MEMORANDUM OF UNDERSTANDING AGREEMENT

The undersigned acknowledge that they have reviewed the Upper Valley Special Education Unit *Memorandum of Understanding* and agree with the information presented within this document. This *Memorandum of Understanding* will stand for five (5) years with changes being coordinated with, and approved by, the undersigned, or their designated representatives. Should changes occur to IDEA, ESEA, or Century Code, this MOU will be updated and sent to your district.

Member District Agreement:

Signature:

Print Name:

Title:

Date:

Upper Valley Special Education Agreement:

Signature:

Print Name:

Title:

Date:
