

# Philomath School District 17J

Code: IGBAG  
Adopted: 4/21/16  
Orig. Code(s): IGBAG



## Special Education – Procedural Safeguards \*\* (Version 1)

### Procedural Safeguards – General

The district ensures that students with disabilities and their families are afforded their procedural safeguards related to:

1. Access to students' educational records;
2. Parent and adult student participation in special education decisions;
3. Transfer of rights to students who have reached the age of majority;
4. Prior written notice of proposed district actions;
5. Consent for evaluation and for initial placement in special education;
6. Independent educational evaluation
7. Dispute resolution through mediation, state complaint investigation, resolution sessions and due process hearings;
8. Discipline procedures and protections for students with disabilities, including placements related to discipline;
9. Placement of students during the pendency of due process hearings;
10. Placement of students by their parents in private schools;
11. Civil actions; and
12. Attorney's fees.

### Procedural Safeguards Notice

1. The district provides to parents a copy of the Procedural Safeguards Notice, published by the Oregon Department of Education, at least once per year and upon initial referral or parent request for special education evaluation and when the parent requests a copy. The district also gives a copy to the student at least a year before the student's 18th birthday or upon learning that the student is considered emancipated.
2. The district provides the Procedural Safeguards Notice in the parent's native language or other mode of communication 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 district takes steps to ensure that the notice is translated orally or by other means understandable to the parent and that the parent understands the content of the notice. The district maintains written evidence that it meets these requirements.

## Parent or Adult Student Meeting Participation

1. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the student, and the provision of a FAPE to the student.
2. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:
  - a. States the purpose, time and place of the meeting and who is invited to attend;
  - b. Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
  - c. Advises that the team may proceed with the meeting even if the parents are not in attendance;
  - d. Advises the parents or adult students who to contact before the meeting to provide information if they are unable to attend; and
  - e. Indicates if one of the meeting's purposes is to consider transition services or transition services needs. If so:
    - (1) Indicates that the student will be invited; and
    - (2) If considering transition services, identifies any agencies invited to send a representative (with parent or adult student consent).
3. The district takes steps to ensure that one or both parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:
  - a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b. Scheduling the meeting at a mutually agreed upon time and place.
4. If neither parent can attend, the district will use other methods to ensure an opportunity to participate, including, but not limited to, individual or conference phone calls or home visits.
5. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.

END OF POLICY

### Legal Reference(s):

ORS 343.155

ORS 343.157

ORS 343.164

OAR 581-015-2000

OAR 581-015-2095

OAR 581-015-2105 - 2190

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300, 300.530-300.534, 300.540-300.543, 300.7 (2017).

Corrected 4/19/19

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# Philomath School District 17J

Code:  
Adopted:

IGBAG

## Special Education - Procedural Safeguards\*\* (Version 2)

### Procedural Safeguards – General

A district ensures that students with disabilities and their families are afforded their procedural safeguards related to:

1. Access to students' educational records;
2. Parent and adult student participation in special education decisions;
3. Transfer of rights to students who have reached the age of majority;
4. Prior written notice of proposed district actions;
5. Consent for evaluation and for initial placement in special education<sup>1</sup>;
6. Independent educational evaluation;
7. Dispute resolution through mediation, state complaint investigation, resolution sessions and due process hearings;
8. Discipline procedures and protections for students with disabilities, including placements related to discipline;
9. Placement of students during the pendency of due process hearings;
10. Placement of students by their parents in private schools;
11. Civil actions; and
12. Attorney's fees.

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<sup>1</sup> If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district: 1) may not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services; 2) may not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child; 3) the district will not be considered to be in violation of the requirement to make a free appropriate public education (FAPE) available to the child because of the failure to provide the child with further special education and related services; and 4) the district is not required to convene an individualized education program (IEP) team meeting or develop an IEP for the child for further provision of special education or related services.

## Procedural Safeguards Notice

1. The district provides to parents a copy of the *Procedural Safeguards Notice*, published by the Oregon Department of Education, at least once per year and upon initial referral or parent request for special education evaluation and when the parent requests a copy. The district also gives a copy to the student at least a year before the student's 18th birthday or upon learning that the student is considered emancipated.
2. The district provides the *Procedural Safeguards Notice* in the parent's native language or other mode of communication 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 district takes steps to ensure that the notice is translated orally or by other means understandable to the parent and that the parent understands the content of the notice. The district maintains written evidence that it meets these requirements.

## Parent or Adult Student Meeting Participation

1. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, IEP and educational placement of the student, and the provision of a FAPE to the student.
2. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:
  - a. States the purpose, time and place of the meeting and who is invited to attend;
  - b. Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
  - c. Advises that the team may proceed with the meeting even if the parents are not in attendance;
  - d. Advises the parents or adult students who to contact before the meeting to provide information if they are unable to attend; and
  - e. Indicates if one of the meeting's purposes is to consider transition services or transition services needs. If so:
    - (1) Indicates that the student will be invited; and
    - (2) If considering transition services, identifies any agencies invited to send a representative (with parent or adult student consent).
3. The district takes steps to ensure that one or both parents of a child with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:
  - a. Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - b. Scheduling the meeting at a mutually agreed upon time and place.
4. If neither parent can attend, the district will use other methods to ensure an opportunity to participate, including, but not limited to, individual or conference phone calls or home visits.

5. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.

END OF POLICY

**Legal Reference(s):**

ORS 343.155  
ORS 343.165  
ORS 343.177  
ORS 343.181

OAR 581-001-0005  
OAR 581-015-2000

OAR 581-015-2030  
OAR 581-015-2090  
OAR 581-015-2095  
OAR 581-015-2190  
OAR 581-015-2195  
OAR 581-015-2305  
OAR 581-015-2310

OAR 581-015-2325  
OAR 581-015-2330  
OAR 581-015-2345  
OAR 581-015-2360  
OAR 581-015-2385

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300, 300.500 to -300.505, 300.515, 300.517 (2008).

Corrected 4/19/19

# Philomath School District 17J

Code: IGBAG-AR  
Adopted: 8/12/13  
Orig. Code: IGBAG-AR

## Special Education - Procedural Safeguard\*\*

### 1. Procedural Safeguards

- a. The district provides procedural safeguards to:
  - (1) Parents, guardians (unless the guardian is a state agency) or persons in parental relationship to the student;
  - (2) Surrogate parents; and
  - (3) Students who have reached the age of 18, the age of majority or are considered emancipated under Oregon law and to whom rights have transferred by statute, identified as adult students (called "eligible students").
- b. The district gives parents a copy of the Procedural Safeguards Notice, published by the Oregon Department of Education (ODE):
  - (1) At least once a year; and
  - (2) At the first referral or parental request for evaluation to determine eligibility for special education services;
  - (3) When the parent (or adult student) requests a copy;
  - (4) To the parent and the student one year before the student's 18th birthday or upon learning that the student is considered emancipated.
- c. The Procedural Safeguards Notice is:
  - (1) Provided written in the native language or other communication of the parents (unless it is clearly not feasible to do so) and in language clearly understandable to the public.
  - (2) If the native language or other mode of communication of the parent is not a written language, the district takes steps to ensure that:
    - (a) The notice is translated orally or by other means to the parent in his/her native language or other mode of communication;
    - (b) The parent understands the content of the notice; and
    - (c) There is written evidence that the district has met these requirements.

### 2. Content of Procedural Safeguards Notice

The procedural safeguards notice includes all of the content provided in the Procedural Safeguards Notice published by ODE.

### 3. Parent or Adult Student Meeting Participation

- a. The district provides parents or adult students an opportunity to participate in meetings with respect to the identification, evaluation, individualized education program (IEP) and educational placement of the student, and the provision of a free appropriate public education (FAPE) to the student.
- b. The district provides parents or adult students written notice of any meeting sufficiently in advance to ensure an opportunity to attend. The written notice:
  - (1) States the purpose, time and place of the meeting and who is invited to attend;
  - (2) Advises that parents or adult students may invite other individuals who they believe have knowledge or special expertise regarding the student;
  - (3) Advises the parents or adult student that the team may proceed with the meeting even if they are not in attendance;
  - (4) Advises the parent or adult students who to contact before the meeting to provide information if they are unable to attend; and
  - (5) Indicates if one of the meeting's purposes is to consider transition services or transition service needs. If so:
    - (a) Indicates that the student will be invited; and
    - (b) Identifies any agencies invited to send a representative.
- c. The district takes steps to ensure that one or both of the parents of a student with a disability are present at each IEP or placement meeting or are afforded the opportunity to participate, including:
  - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
  - (2) Scheduling the meeting at a mutually agreed on time and place.
- d. If neither parent can participate, the district will use other methods to ensure participation, including, but not limited to, individual or conference phone calls or home visits.
- e. The district may conduct an evaluation planning or eligibility meeting without the parent or adult student if the district provided meeting notice to the parent or adult student sufficiently in advance to ensure an opportunity to attend.
- f. The district may conduct an IEP or placement meeting without the parent or adult student if the district is unable to convince the parents or adult students that they should participate. Attempts to convince the parent to participate will be considered sufficient if the district:
  - (1) Communicates directly with the parent or adult student and arranges a mutually agreeable time and place and sends written notice to confirm the arrangement; or
  - (2) Proposes a time and place in the written notice stating that a different time and place might be requested and confirms that the notice was received.
- g. If the district proceeds with an IEP meeting without a parent or adult student, the district must have a record of its attempts to arrange a mutually agreed upon time and place such as:
  - (1) Detailed records of telephone calls made or attempted and the results of those calls;
  - (2) Copies of correspondence sent to the parents and any responses received; and

- (3) Detailed records of visits made to the parents' home or place of employment and the results of those visits.
- h. The district takes whatever action is necessary to ensure that the parent or adult student understands the proceedings at a meeting, including arranging for an interpreter for parents or adult students who are deaf or whose native language is other than English.
- i. After the transfer of rights to an adult student at the age of majority, the district provides written notice of meetings to the adult student and parent, if the parent can be reasonably located. After the transfer of rights to an adult student at the age of majority, a parent receiving notice of an IEP meeting is not entitled to attend the meeting unless invited by the adult student or the district.
- j. An IEP meeting does not include:
  - (1) Informal or unscheduled conversations involving district personnel;
  - (2) Conversations on issues such as teaching methodology, lesson plans or coordination of service provision if those issues are not addressed in the student's IEP; or
  - (3) Preparatory activities that district or public personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

#### 4. Surrogate Parents

- a. The district protects the rights of a student with a disability, or suspected of having a disability, by appointing a surrogate parent when:
  - (1) The parent cannot be identified or located after reasonable efforts;
  - (2) The student is a ward of the state or an unaccompanied homeless youth and there is reasonable cause to believe that the student has a disability, and there is no foster parent or other person available who can act as the parent of the student; or
  - (3) The parent or adult student requests the appointment of a surrogate parent.
- b. The district secures nominations of persons to serve as surrogates. The district appoints surrogates within 30 days of a determination that the student needs a surrogate, unless a surrogate has already been appointed by juvenile court.
- c. The district will only appoint a surrogate who:
  - (1) Is not an employee of the district or ODE;
  - (2) Is not an employee of any other agency involved in the education or care of the student;
  - (3) Is free of any personal or professional interest that would interfere with representing the student's special education interests; and
  - (4) Has the necessary knowledge and skills that ensure adequate representation of the student in special education decisions. The district will provide training, as necessary, to ensure that surrogate parents have the requisite knowledge.
- d. The district provides all special education rights and procedural safeguards to appointed surrogate parents.
- e. A surrogate will not be considered an employee of the district solely on the basis that the surrogate is compensated from public funds.
- f. The duties of the surrogate parent are to:



- (1) Protect the special education rights of the student;
  - (2) Be acquainted with the student's disability and the student's special education needs;
  - (3) Represent the student in all matters relating to the identification, evaluation, IEP and educational placement of the student; and
  - (4) Represent the student in all matters relating to the provision of FAPE to the student.
- g. A parent may give written consent for a surrogate to be appointed.
- (1) When a parent requests that a surrogate be appointed, the parent shall retain all parental rights to receive notice and all of the information provided to the surrogate. When the district appoints a surrogate at parent request, the district will continue to provide to the parent a copy of all notices and other information provided to the surrogate.
  - (2) The surrogate, alone, shall be responsible for all matters relating to the special education of the student. The district will treat the surrogate as the parent unless and until the parent revokes consent for the surrogate's appointment.
  - (3) If a parent gives written consent for a surrogate to be appointed, the parent may revoke consent at any time by providing a written request to revoke the surrogate's appointment.
- h. An adult student to whom rights have transferred at age of majority may give written consent for a surrogate to be appointed. When an adult student requests that a surrogate be appointed, the student shall retain all rights to receive notice and all of the information provided to the surrogate. The surrogate, alone, shall be responsible for all matters relating to the special education of the student. The district will treat the surrogate as the adult student unless and until the adult student revokes consent for the surrogate's appointment. If an adult student gives written consent for a surrogate to be appointed, the adult student may revoke consent at any time by providing a written request to revoke the surrogate's appointment.
- i. The district may change or terminate the appointment of a surrogate when:
- (1) The person appointed as surrogate is no longer willing to serve;
  - (2) Rights transfer to the adult student or the student graduates with a regular diploma;
  - (3) The student is no longer eligible for special education services;
  - (4) The legal guardianship of the student is transferred to a person who is able to carry out the role of the parent;
  - (5) A foster parent or other person is identified who can carry out the role of parent;
  - (6) The parent, who previously could not be identified or located, is now identified or located;
  - (7) The appointed surrogate is no longer eligible;
  - (8) The student moves to another district; or
  - (9) The student is no longer a ward of the state or unaccompanied homeless youth.
- j. The district will not appoint a surrogate solely because the parent or student to whom rights have transferred is uncooperative or unresponsive to the special education needs of the student.

## 5. Transfer of Rights at Age of Majority

- a. When a student with a disability reaches the age of majority, marries or is emancipated, rights previously accorded to the student's parents under the special education laws, transfer to the student. A student for whom rights have transferred is considered an "adult student" under OAR 581-015-2000(1).

- b. The district provides notice to the student and the parent that rights (accorded by statute) will transfer at the age of majority. This notice is provided at an IEP meeting and documented on the IEP:
  - (1) At least one year before the student's 18th birthday;
  - (2) More than one year before the student's 18th birthday, if the student's IEP team determines that earlier notice will aid transition; or
  - (3) Upon actual knowledge that within a year the student will likely marry or become emancipated before age 18.
- c. The district provides written notice to the student and to the parent at the time of the transfer.
- d. These requirements apply to all students, including students who are incarcerated in a state or local adult or juvenile correctional facility or jail.
- e. After transfer of rights to the student, the district provides any written prior notices and written notices of meetings required by the special education laws to the adult student and to the parent if the parent can be reasonably located.
- f. After rights have transferred to the student, receipt of notice of an IEP meeting does not entitle the parent to attend the meeting unless invited by the student or the district.

6. Prior Written Notice

- a. The district provides prior written notice to the parent of a student, or student, within a reasonable period of time, before the district:
  - (1) Proposes to initiate or change, the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child; or
  - (2) Refuses to initiate or change the identification, evaluation or educational placement of the student, or the provision of a FAPE to the child.
- b. The content of the prior written notice will include:
  - (1) A description of the action proposed or refused by the district;
  - (2) An explanation of why the district proposed or refused to take the action;
  - (3) A description of each evaluation procedure, test, assessment, record or report used as a basis for the proposal or refusal;
  - (4) A statement that the parents of a student with a disability have procedural safeguards and, if this notice is not an initial referral for evaluation, how a copy of the Procedural Safeguards Notice may be obtained;
  - (5) Sources for parents to contact to obtain assistance in understanding their procedural safeguards;
  - (6) A description of other options the IEP team considered and the reasons why those options were rejected; and
  - (7) A description of other factors that are relevant to the agency's proposal or refusal.
- c. The prior written notice is:
  - (1) Written in language understandable to the general public; and
  - (2) 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;

- (3) If the native language or other mode of communication of the parent is not a written language, the district shall take steps to ensure that:
  - (a) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
  - (b) The parent understands the content of the notice; and
  - (c) There is written evidence that the requirements of this rule have been met.

7. Consent – Initial Evaluation

- a. The district provides notice and obtains informed written consent from the parent or adult student before conducting an initial evaluation to determine whether a student has a disability (as defined by Oregon law) and needs special education. Consent for initial evaluation is not consent for the district to provide special education and related services.
- b. The district makes reasonable efforts to obtain informed consent from a parent for an initial evaluation to determine a child's eligibility for special education services. If a parent does not provide consent for an initial evaluation or does not respond to a request for consent for an initial evaluation, the district may, but is not required to, pursue the initial evaluation of the child through mediation or due process hearing procedures. The district does not violate its child find obligations if it declines to pursue the evaluation using these procedures.

8. Consent – Initial Provision of Special Education Services

- a. The district provides notice and obtains informed written consent from the parent or adult student before the initial provision of special education and related services to the student.
- b. The district makes reasonable efforts to obtain informed consent, but if a parent or adult student does not respond or refuses consent for initial provision of special education and related services, the district does not convene an IEP meeting, develop an IEP or seek to provide special education and related services through mediation or due process hearing procedures. The district will not be considered to be in violation of the requirement to make FAPE available to the student under these circumstances. The district stands ready to serve the student if the parent or adult student later consents.

9. Consent – Re-evaluation

- a. The district obtains informed parent consent before conducting any re-evaluation of a child with a disability, except:
  - (1) The district does not need written consent for a re-evaluation if the parent does not respond after reasonable efforts to obtain informed consent. However, the district does not conduct individual intelligence tests or tests of personality without consent.
  - (2) If a parent refuses to consent to the re-evaluation, the district may, but is not required to, pursue the re-evaluation by using mediation or due process hearing procedures.
- b. A parent or adult student may revoke consent at any time before the completion of the activity for which they have given consent. If a parent or adult student revokes consent, that revocation is not retroactive.

## 10. Consent – Other Requirements

- a. The district documents its reasonable efforts to obtain parent consent, such as phone calls, letters, and meeting notes.
- b. If a parent of a student who is home schooled or enrolled by the parents in a private school does not provide consent for the initial evaluation or the re-evaluation, or if the parent does not respond to a request for consent, the district:
  - (1) Does not use mediation or due process hearing procedures to seek consent; and
  - (2) Does not consider the child as eligible for special education services.
- c. If a parent or adult student refuses consent for one service or activity, the district does not use this refusal to deny the parent or child any other service, benefit or activity, except as specified by these rules and procedures.
- d. If, at any time subsequent to the initial provision of special and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the district:
  - (1) May not continue to provide special education and related services to the child, but must provide prior written notice before ceasing the provision of special education and related services;
  - (2) May not use mediation or due process procedures to obtain an agreement or ruling that the services may be provided to the child;
  - (3) The district will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
  - (4) The district is not required to convene an IEP team meeting or develop an IEP for the child for further provision of special education or related services.

## 11. Exceptions to Consent

- a. The district does not need written parent or adult student consent before:
  - (1) Reviewing existing data as part of an evaluation or re-evaluation;
  - (2) Administering a test or other evaluation administered to all students without consent unless, before administration of that test or evaluation, consent is required of parents of all students;
  - (3) Conducting evaluations, tests, procedures or instruments that are identified on the student's individualized education program (IEP) as a measure for determining progress; or
  - (4) Conducting a screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation.
- b. The district does not need written parent consent to conduct an initial special education evaluation of a student who is a ward of the state and not living with the parent if:
  - (1) Despite reasonable efforts to do so, the district has not been able to find the parent;
  - (2) The parent's rights have been terminated in accordance with state law; or

- (3) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.
- c. The district does not need written parental consent if an administrative law judge (ALJ) determines that the evaluation or re-evaluation is necessary to ensure that the student is provided with a free appropriate public education.

## 12. Independent Educational Evaluations (IEE)

- a. A parent of a student with a disability has a right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the district.
- b. If a parent requests an independent educational evaluation at public expense, the district provides information to parents about where an independent educational evaluation may be obtained, and the district criteria applicable for independent educational evaluations.
- c. If a parent requests an independent educational evaluation at public expense, the district, without unnecessary delay, either:
  - (1) Initiates a due process hearing to show that its evaluation is appropriate; or
  - (2) Ensures that an independent educational evaluation is provided at public expense unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet district criteria.
- d. The district criteria for independent educational evaluations are the same as for district evaluations including, but not limited to, location, examiner qualifications and cost.
  - (1) Criteria established by the district do not preclude the parent's access to an independent educational evaluation.
  - (2) The district provides the parents the opportunity to demonstrate the unique circumstances justifying an IEE that does not meet the district's criteria.
  - (3) A parent may be limited to one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.
- e. If a parent requests an independent educational evaluation, the district may ask why the parent disagrees with the public evaluation. The parent may, but is not required to, provide an explanation. The district may not:
  - (1) Unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation;
  - (2) Except for the criteria listed above in c., impose conditions or timelines related to obtaining an IEE at public expense.
- f. The district considers an independent educational evaluation submitted by the parent, in any decision made with respect to the provision of a free appropriate public education to the student, if the submitted independent evaluation meets district criteria.

## 13. Dispute Resolution – Mediation

- a. a. The district or parent may request mediation from ODE for any special education matter, including before the filing of a complaint or due process hearing request.

b. The district acknowledges that:

- (1) Mediation must be voluntary on the part of the parties, must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques and may not be used to deny or delay a parent's right to a due process hearing or filing a complaint.
- (2) Each mediation session must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.
- (3) An agreement reached by the parties to the dispute in the mediation process must be set forth in a legally binding written mediation agreement that:
  - (a) States the terms of the agreement;
  - (b) States that all discussions that occurred during the mediation process remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
  - (c) Is signed by the parent and a representative of the district who has the authority to bind the district to the mediation agreement.
- (4) Mediation communication is not confidential if it relates to child or elder abuse and is made to a person who is required to report abuse, or threats of physical harm, or professional conduct affecting licensure.
- (5) The mediation agreement is enforceable in any state court of competent jurisdiction or in a district court of the United States.

14. Dispute Resolution – Complaint Investigation

- a. Any organization or person may file a signed, written complaint with the State Superintendent of Public Instruction alleging that a district or education service district (ESD) is violating or has violated the Individuals with Disabilities Education Act (IDEA) or associated regulations within one year before the date of the complaint. Upon receiving a parent complaint, the ODE forwards the complaint to the district or ESD along with a request for a district response to the allegations in the complaint.
- b. Upon receiving a request for response from ODE, the district responds to the allegations and furnishes any requested information or documents within 10 business days.
- c. The district sends a copy of the response to the complainant. If ODE decides to conduct an on-site investigation, district personnel participate in interviews and provide additional documents as needed.
- d. The district and the complainant may attempt to resolve a disagreement that led to a complaint through mediation. If they decide against mediation, or if mediation fails to produce an agreement, ODE will pursue the complaint investigation.
- e. If ODE substantiates some or all of the allegations in a complaint, it will order corrective action. The district satisfies its corrective action obligations in a timely manner.
- f. If the district disagrees with the findings and conclusions in a complaint final order, it may seek reconsideration by ODE or judicial review in county circuit court.

15. Due Process Hearing Requests

- a. The district acknowledges that parents may request a due process hearing if they disagree with a district proposal or refusal relating to the identification, evaluation, educational placement or provision of a free appropriate education to a student who may have a disability and be eligible for special education.

- b. The district may request a due process hearing regarding the identification, evaluation, educational placement or provision of a free appropriate education to a student who may have a disability and be eligible for special education.
- c. When requesting a due process hearing, the district or the attorney representing the district provides notice to the parent and to ODE.
- d. The party, including the district, that did not file the hearing request must, within 10 days of receiving the request for a hearing, send to the other party a response that specifically addresses the issues raised in the hearing request.
- e. If the parent had not yet received prior written notice of the district's proposal or refusal, the district, within 10 days of receiving the hearing request for a due process hearing, sends to the parent a response that includes:
  - (1) An explanation of why the district proposed or refused to take the action raised in the hearing request;
  - (2) A description of other options that the district considered and the reasons why those options were rejected;
  - (3) A description of each evaluation procedure, assessment, record or report the district used as the basis for the proposed or refused action; and
  - (4) A description of the factors relevant to the district's proposal or refusal.

#### 16. Resolution Session

- a. Within 15 days of receiving a due process hearing request, the district will hold a resolution session with the parents and the relevant members of the IEP team who have specific knowledge of the facts identified in the due process hearing request.
- b. This meeting will include a representative of the district who has decision-making authority for the district.
  - (1) The district will not include an attorney unless the parent brings an attorney.
  - (2) The district will provide the parent with an opportunity for the parent to discuss the hearing request and related facts so that the district has an opportunity to resolve the dispute.
  - (3) The district and parent may agree in writing to waive the resolution meeting. If so, the 45-day hearing timeline will begin the next business day, unless the district and parent agree to try mediation in lieu of the resolution session.

#### 17. Time Limitations and Exception

- a. A parent must request a due process hearing within two years after the date of the district act or omission that gives rise to the parent's hearing request.
- b. This timeline does not apply to a parent if the district withheld relevant information from the parent or incorrectly informed the parent that it had resolved the problem that led the parent's hearing request.

#### 18. Hearing Costs

- a. The district reimburses ODE for costs related to conducting the hearing, including pre-hearing conferences, scheduling arrangement and other related matters.

- b. The district provides the parent with a written or, at the option of the parent, an electronic verbatim recording of the hearing, within a reasonable time of the close of the hearing
- c. The district does not use IDEA funds to pay attorney's fees or other hearing costs.

19. Discipline and Placement in Interim Alternative Setting

See Board policy JGDA/JGEA - Discipline of Students with Disabilities.

Corrected 4/19/19



# Philomath School District 17J

Code: IGBAH  
Adopted: 4/21/16  
Orig. Code: IGBAH

## Special Education - Evaluation Procedures

Consistent with its child find and parent consent obligations, the district responds promptly to requests initiated by a parent or public agency for an initial evaluation to determine if a student is a student with a disability.

A full and individual evaluation of a student's educational needs that meets the criteria established in the Oregon Administrative Rules (OAR) will be conducted before determining eligibility and before the initial provision of special education and related services to a student with a disability. The district implements an ongoing system to locate, identify and evaluate all children birth to 21 residing within its jurisdiction who have disabilities and need early intervention, early childhood special education or special education services. ~~Testing and evaluation materials and procedures will be selected and administered so as not to be racially or culturally discriminatory. A student must meet the eligibility criteria established in the Oregon Administrative Rules (OAR) to qualify for special education.~~

~~A reevaluation will be conducted every three years or more frequently if conditions warrant or if the student's parent(s) or teacher requests an evaluation.~~

The district identifies all children with disabilities, regardless of the severity of their disabilities, including children who are:

1. Highly mobile, such as immigrant and homeless children;
2. Wards of the state;
3. Indian pre-school children living on reservations;
4. Suspected of having a disability even though they **are** advancing from grade to grade;
5. Home schooled;
6. Attending private (religious or secular)
7. Attending a public charter school located in the district;
8. Below the age of compulsory attendance **who are not enrolled in a public or private school program;**  
~~or~~
9. Above the age of compulsory school attendance who have not graduated from high school with a regular diploma and have not completed the school year in which they reach their 21st birthday.

The district is responsible for evaluating and determining eligibility for special education services for school age children. The district is responsible for evaluating children who may be eligible for early intervention/early childhood special education (EI/ECSE) services.

The district's designated referral and evaluation agency is responsible for determining eligibility.

Before conducting any evaluation or re-evaluation, the district:

1. Plans the evaluation with a group that includes the parent(s);
2. Provides prior written notice to the parent(s) that describes any proposed evaluation procedures the agency proposes to conduct as a result of the evaluation planning process; and
3. Obtains informed written consent for evaluation.

The district conducts a comprehensive evaluation or re-evaluation before:

1. Determining that a child has a disability;
2. Determining that a child continues to have a disability;
3. Changing a child's eligibility;
4. Providing special education and related services;
5. Terminating the child's eligibility for special education, unless the termination is due to graduation from high school with a regular diploma or exceeding the age of eligibility for a free appropriate public education.

Upon completion of the evaluation, the district provides the parent or eligible child a copy of the evaluation at no cost. The evaluation report describes and explains the results of the evaluation. Upon completion of the eligibility determination, the district provides the parent or eligible child documentation of eligibility determination at no cost.

The district ensures that assessments and other evaluation materials, including those tailored to assess specific areas of education need, used to assess the child **are**:

1. ~~Are s~~Selected and administered so as not to be racially or culturally discriminatory;
2. ~~Are p~~rovided and administered in the child's native language or other mode of communication and 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 do so;
3. ~~Are u~~sed for purposes for which assessments or measures are valid and reliable.
4. ~~Are a~~Administered by trained and knowledgeable personnel; and
5. ~~Are a~~Administered in accordance with any instructions provided by the producer of such assessments.

Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

A student must meet the eligibility criteria established in the Oregon Administrative Rules.

The district conducts re-evaluations:

1. When the educational or related service needs, including improved academic achievement and functional performance of the children warrant a re-evaluation;
2. When the child's parents or teacher requests a re-evaluation, and
3. At least every three years, unless that parent and the district agree that a re-evaluation is unnecessary.

The district does not conduct re-evaluation more than once a year, unless the parent and district agree otherwise.

If a parent has previously revoked consent for special education and related services and subsequently requests special education and related services, the district will conduct an initial evaluation of the student to determine eligibility for special education.

#### END OF POLICY

#### Legal Reference(s):

ORS 343.155  
ORS 343.157

ORS 543.164  
OAR 581-015-2000

OAR 581-015-2095  
OAR 581-015-2105 - 2190

Assistance to States for the Education of Children with Disabilities, 34 C.F.R. §§ 300.300, 300.530-300.534, 300.540-300.543, 300.7 (2017).

Corrected 4/19/19

# Philomath School District 17J

Code: IGBAH-AR  
Adopted: 4/21/16  
Orig. Code: IGBAH-AR

## Special Education - Evaluation Procedures\*\*

1. Request for Initial Evaluation
  - a. Consistent with its child find and parent consent obligations, the district responds promptly to requests initiated by a parent or public agency for an initial evaluation to determine if a child is a child with a disability.
  - b. Upon receiving a request from a parent or public agency for an initial evaluation, the district designates a team to determine whether an initial evaluation will be conducted.
    - (1) The district team includes the parent and at least two professionals, at least one of whom is a specialist knowledgeable and experienced in the evaluation and education of children with disabilities.
      - (a) The team may make the decision to evaluate with or without a meeting.
      - (b) The district documents team members' input, including parents, whether or not the district convenes a meeting.
  - c. If a meeting is held, the district invites parents to participate.
  - d. If the district agency refuses an evaluation requested by the parent, the district provides the parent with prior written notice of its refusal to conduct an evaluation.
  - e. The district acknowledges the parent's rights to challenge its refusal to conduct an evaluation.
2. The initial evaluation consists of procedures:
  - a. To determine if the child has a disability; and
  - b. To identify the child's educational needs.
3. The district conducts the initial evaluation within 60 school days of receiving parental consent for evaluation unless:
  - a. The district and parents agree in writing to extend the timeline for an evaluation to determine eligibility for specific learning disabilities;
  - b. The child moves from another district during the evaluation, the district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the district agree in writing to a specific time when the evaluation will be completed; or
  - c. The parent repeatedly fails or refuses to produce the child for evaluation.
4. Re-Evaluation
  - a. The district conducts re-evaluations:
    - (1) When the educational or related service needs, including academic achievement and functional performance of the child, warrant an evaluation;

- (2) When the child's parents or teachers request a re-evaluation; and
    - (3) At least every three years, unless that parent and the district agree that a re-evaluation is unnecessary.
  - b. The district does not conduct re-evaluation more than once a year, unless the parent and district agree otherwise.
- 5. Evaluation Planning
  - a. The district, or designated referral and evaluation agency for preschool children, ensures that, as part of an initial evaluation (if appropriate), the child's individualized education program (IEP) or individualized family service plan (IFSP) team, including the parents and other qualified professionals, as appropriate, review and document their review of existing evaluation data on the child including:
    - (1) Evaluations and information provided by the child's parents;
    - (2) Current classroom-based, local or state assessments and classroom-based observations; and
    - (3) Observations by teachers and related service providers.
  - b. On the basis of that review and input from the child's parents, identify what additional data if any is needed to determine:
    - (1) Whether the child has a disability;
    - (2) The child's present levels of academic achievement and related development needs;
    - (3) Whether the child needs or continues to need early intervention/early childhood special education (EI/ECSE) or special education and related services; and
    - (4) For re-evaluation, whether the child needs any additions or modifications to the special education and related services or, for a pre-school child, any additions or modification to ECSE services:
      - (a) To enable the child to meet the measurable annual goals in the child's IEP, or IFSP; and
      - (b) To participate, as appropriate, in the general education curriculum or, for preschool children, appropriate activities.
- 6. Evaluation Procedures
  - a. The district assesses the child 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.
  - b. The evaluation is sufficiently comprehensive to identify all of the child's special education and related needs, whether or not commonly linked to the disability category in which the child has been classified.
  - c. The evaluation includes information provided by the parent and a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child that assist in determining:
    - (1) Whether the child has a disability; 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).

- d. The district ensures that assessments and other evaluation materials, including those tailored to assess specific areas of educational need, used to assess a child:
  - (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 do so;
  - (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.
- e. The district selects and administers assessments 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).
- f. The district uses technically sound instruments that may assess the relative contribution of cognitive factors and behavioral factors in addition to physical or developmental factors.
- g. The district does not use any single measure of 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.

7. Requirements if Additional Evaluation Data is not Needed to Determine Eligibility.

- a. If the child's IEP or IFSP team determines that no additional data is needed to determine whether or not the child is or continues to be a child with a disability, and to determine the child's educational and developmental needs, the district provides prior written notice of that decision, the reasons for it, and the right of parents to request an assessment.
- b. When the IEP or IFSP team determines that no additional data is needed to determine eligibility, the district does not conduct an assessment of the child unless requested to do so by the parents.

8. Evaluation Procedures for Transfer Students

When a child with disabilities transfers from one district to another district in the same school year, the district coordinates with the previous district to complete any pending assessment as quickly as possible.

9. Eligibility Determination

- a. Once evaluation is completed, the district designates an eligibility team to determine whether or not the student is eligible for special education services.
- b. This team includes:
  - (1) Two or more professionals, one of whom will be knowledgeable and experienced in evaluating and teaching students with the suspected disability; and

- (2) The student's parent(s).
- c. For consideration of eligibility in the area of specific learning disabilities, the district eligibility team includes:
- (1) A group of qualified professionals and the parent;
  - (2) The child's regular education teacher or, if the child does not have a regular education teacher, a regular classroom teacher qualified to teach a child of his or her age, or for a child of less than school age, a preschool teacher; and
  - (3) A person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist or other qualified professional.
- d. In interpreting evaluation data, each district team carefully considers and documents information from a variety of sources, including but not limited to, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior and all required elements of the evaluation.
- e. Each eligibility team prepares a written eligibility statement that includes:
- (1) Identification of the evaluation data considered in determining the child's eligibility, including the required evaluation components for the disability under consideration;
  - (2) A determination of whether the child meets the minimum evaluation criteria for one or more of the disability categories in Oregon Administrative Rule **OAR**;
  - (3) A determination of whether the primary basis for the suspected disability is:
    - (a) A lack of appropriate instruction in reading (including the essential components of reading) or math; or
    - (b) Limited English Proficiency.
  - (4) A determination of whether the child's disability has an adverse impact on the child's educational performance;
  - (5) A determination of whether, as a result of the disability, the child needs special education services;
  - (6) The signature of every team member and an indication of whether each agrees with the eligibility determination;
  - (7) For a child suspected of having a specific learning disability, the team's written report includes additional specific information as required by Oregon Administrative Rule.
- f. The team does not find a child eligible as a child with a disability if the determinant factor for the eligibility decision is:
- (1) Lack of appropriate instruction in reading, including the essential components of reading instruction or lack of appropriate instruction in math; or
  - (2) Limited English Proficiency; and
  - (3) The child does not otherwise meet the eligibility criteria found in **OAR** ~~regon Administrative Rule~~ for the category (ies) of disability under consideration.
- g. The team finds a child eligible if the child has a disability and needs special education and related services, even though the child is advancing from grade to grade.

- h. child may have disabilities in more than one disability category, but the team needs to find the child eligible in only one category. However, the district evaluates the child in all areas related to the suspected disability or disabilities, and the child's IEP addresses all of the child's special education needs.

Corrected 4/19/19