

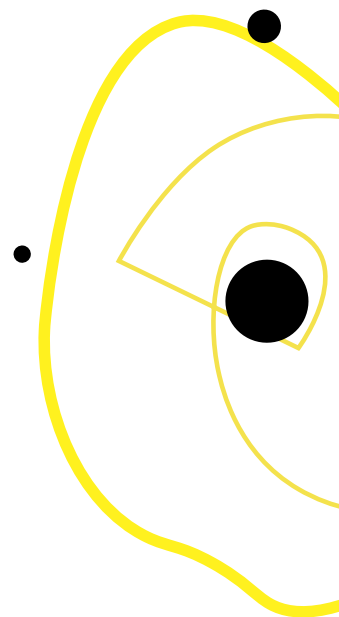
Student Support Services

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# Parent Handbook Special Education

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# What is Special Education?

Under the Individuals with Disabilities Education Act (IDEA), special education means, "specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability."

Children who receive special education and related services are entitled to a free appropriate public education (FAPE). This includes opportunities to participate in the school's general curriculum and to make progress towards meeting annual goals. Children who receive special education must have opportunities to take part in other typical school activities that are appropriate to their individual needs.

In Minnesota, schools are required to serve eligible children from birth until the age of 21, or graduation from high school, whichever comes first. Services are provided by licensed personnel and include special teaching, materials, and techniques. The area schools provide students with special education needs access to appropriate services in the following disability areas:

- Speech or Language Impairment (S/L)
- Developmental Cognitive Disability (DCD, Mild to Moderate or Severe to Profound)
- Physically Impaired (PI)
- Deaf-Hard of Hearing (D/HH)
- Visually Impaired (VI)
- Specific Learning Disability (SLD)
- Emotional/Behavioral Disorders (E/BD)
- Deaf Blind (D/B)
- Other Health Disabilities (OHD)
- Autism Spectrum Disorder (ASD)
- Developmental Delay (DD)
- Traumatic Brain Injury (TBI)
- Severely Multiply Impaired (SMI)
- Related Service

There are specific criteria that need to be met in order to qualify for special education. Although medical information is important to provide to your child's educational team, know that the criteria needed to meet educational criteria may differ from medical diagnoses. The current Minnesota criteria are available on the MN Department of Education website, [www.education.mn.gov](http://www.education.mn.gov)

### **What are Related, Direct and Indirect Services?**

Related services are services that are the supportive services or activities necessary for some students with disabilities to maximize their educational outcomes. Related services may include but are not limited to: occupational therapy, physical therapy, psychological services, school health services and school nurse services, speech-language pathology services and transportation.

Some related services such as occupational therapy and developmental adapted physical education (DAPE) cannot be provided as a stand-alone service. In order to receive the support of some related services, the student must be eligible for special education services under a primary disability other than speech-language. In addition, the team must determine the need for a related service are necessary to support the student's IEP goals and objectives.

These services may be direct or indirect. Direct services are provided directly to the student from a professional. Indirect services are provided from the professional to the teacher, parents, or others that work directly with the student. Indirect services may include consulting, progress reviews, observations and discussing strategies to help the student function better.

### **What is IDEA-97?**

The Individuals with Disabilities Act (IDEA-97) is the federal special education law. Congress will revise and reauthorize the IDEA statute periodically. You should be aware of your rights under these regulations, as they may affect the placement of your child and the curriculum in the school. The most recent reauthorization was in 2004, the Individual with Disabilities Educational Improvement Act (IDEIA-2004). Children with disabilities are entitled to receive a free appropriate public education (FAPE). There are procedural safeguards in place so each student receives an appropriate evaluation and an individualized education program that meets specific needs. Parent and student participation is encouraged.

Your child should be educated with his or her peers as closely as possible. You should only consider alternative programming when the needs of your child cannot be met within the regular school setting with supplementary aid and services. This is referred to as the least restrictive environment (LRE).

Each state has special education laws. IDEIA-2004 is the minimum and some states offer more. In Minnesota, the Department of Education is responsible for the rules and regulations affecting special education. More detailed information about laws, regulations, and statutes are available on their website [www.education.mn.gov](http://www.education.mn.gov)

# What is a Referral?

Children may be eligible for special education services at birth. Identification of school-age children is usually based on the child's performance in school.

## **Pre-Referral**

Before referring a school-aged child for an evaluation, the classroom teacher may plan strategies to see if his or her performance improves with simple changes in curriculum or environment. These are called "pre-referral interventions." At least two pre-referral interventions must be tried and documented. If your child's performance improves, an evaluation may not be needed. If problems continue, an evaluation will help identify more specific ways to help your child learn. A pre-referral intervention does not require parent permission. It is important for parents to know what interventions are to be tried and the amount of time that they will be attempted before it is decided if they are working or not.

## **Referral**

When classroom interventions are not successful, the classroom teacher may make a referral for a Child Study Team to consider whether the child should receive further evaluation. This team decides the areas to be evaluated and the types of evaluation(s) to be completed.

The referral is the starting point of the special education process. A referral is simply a written document requesting an evaluation. This referral can be made by a parent or guardian, the classroom teacher, any member of the school district (public or private), a judicial officer, or a student (18 years or older, or an emancipated minor). A meeting may be scheduled to voice concerns.

Parents may initiate a request for an evaluation. In order to do this, you should submit a written request for an evaluation to the school. One copy of the letter should go to the school principal and classroom teachers and one should be kept for your files. This document should include the reason for the referral and details describing academic or behavioral concerns. You also may be asked to provide additional details regarding concerns about school performance. Once the request is made, the team will determine if interventions need to be implemented or if the assessment process should begin.

A referral does not mean the student has a disability. It is the first step to determine if concerns are due to a disability. Following the referral, the school district will invite you to an evaluation-planning meeting. You will work with the school team to determine what areas will be evaluated, what tests will be used and who will do the testing. The evaluation cannot take place without your written consent.

# What is an Evaluation?

When an evaluation is recommended, it means that your child's academic team of teachers feels your child may have issues at school that are interfering with his or her ability to learn.

Your child's teachers may not have identified any particular area of concern, but they would like to have a team of learning/behavioral specialists (the Child Study Team) review your child's records and make recommendations to them about how best to work with your child or how a special education evaluation might be helpful.

The purpose of the evaluation is to determine if the student qualifies for special education. This starts with the evaluation of the child in all areas of concern. The evaluation should examine all areas of suspected disability and provide a detailed description of your child's current educational performance and needs. This evaluation may include formal tests, informal measures and informal observations. Evaluations also may include review of the student's educational and medical history. Several professionals may be involved, and may include, but are not limited to: the general education teacher, a special education teacher, the school nurse, the school psychologist, a speech-language pathologist, an adapted physical education teacher, occupational therapist, or physical therapist. The evaluation will attempt to determine if factors related to a disability are affecting your child in school.

Teachers can refer a student to a Child Study Team without your authorization; however, no special education evaluation can take place without your written consent. The school district will invite you to an evaluation-planning meeting. You will work with the school team to determine what areas will be assessed, what tests will be used and who will do the testing. A form requesting permission to evaluate your child will be sent to you for your signature, shortly after the evaluation-planning meeting. The form will indicate what areas are to be tested, the title of the professional who will be doing the evaluation and specifically what types of tests they are going to administer.

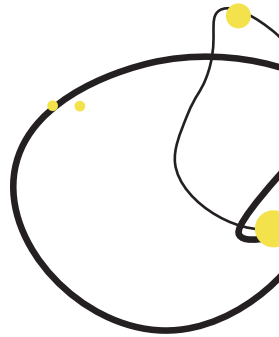
The school district has 30 school days (not including holidays and weekends) to complete the testing. This time period is determined by state rules in order to provide schools with enough time to conduct an appropriate evaluation of your child's needs.

The specialists involved will depend on the area(s) of concern regarding the student. There must be more than one test performed by more than one evaluator during the evaluation.

**You must give your consent in writing before the evaluation can take place.**

There are additional federally regulated steps taken when a specific learning disability is suspected. The district must have at least one team member, other than the student's teacher, complete a classroom observation of the student's academic performance.

When a child is less than school age, a team member should complete the observation of the child in an age-appropriate environment. If the child qualifies for special education services, the results from the evaluation will be used as a guide to develop your child's individualized educational program (IEP). If you disagree with any part of the evaluation, you need to resolve the issues before moving forward in the process. (See the section "What if I Disagree or Have Concerns with My Child's IEP" for more information)



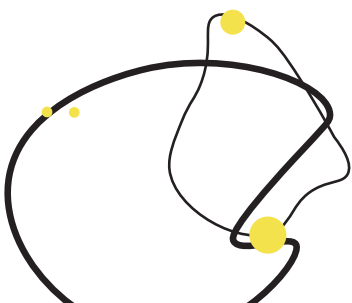
### **After the Evaluation...**

After the evaluation, the case facilitator or school psychologist assigned to your child will contact you. This person will coordinate a date and time for you to discuss the results of your child's evaluation with members of the evaluation team along with at least one classroom teacher. The student's participation is determined on an individual basis and is up to you. Generally, students in middle school and high school attend. This is determined before the meeting with the team. Student participation is important and his or her input can be very valuable.

The assessment results will be summarized in an evaluation report. A draft of the report may be given to you at the meeting. You will be able to have input into the final report.

Under very specific circumstances, if the child does not meet the specific eligibility requirements for special education services, a team "override" may be considered for special education. The team must document why the assessment did not accurately identify the disability. To do this, the team must explain why the standards and procedures used with the majority of students resulted in invalid findings. This can happen in cases where some data is considered invalid due to various factors and other data is determined to have adequate validity. The team is required to state which data had the greatest relative importance for the eligibility decision. Documentation must be provided with signatures of all team members.

If a student does not qualify for special education and still struggles in school, there are other options that may be available to him or her. General education supports including title services, student advocates, guidance counselors, 504 Plan, reading/math interventionists or other building support. The student's classroom teacher also may be able to provide additional support.





# What is an IFSP or IEP?

The student's plan is formalized using a document called the Individual Family Services Plan (IFSP) for children in Early Childhood Special Education (birth through age 2) or the Individualized Education Program (IEP) for school-age children.

## **Development of the "Team"**

The IEP requirements under IDEIA-2004 emphasize the importance of working cooperatively as a team. The team is facilitated by the school district. The team brings together parents, the student, general educators, special educators and administrators. Important educational decisions for students with disabilities are made with this approach. With the combined knowledge and resources of these individuals, students will be assured greater support and subsequent success. Under IDEIA-2004, the following people are required to be on the team and at the meetings:

- At least one parent
- At least one general education teacher
- Special education teacher
- District representative (This person is qualified to provide or supervise the provision of specially designed instruction, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of school district resources).
- The student, if appropriate

There may be other team members as appropriate. Parents can bring anyone they wish to the IEP meetings. As a courtesy, advise the school district if you are bringing additional guests or participants. The school will let you know whom they plan to have attend via the Team Meeting Notice that is sent to attendees prior to the meeting. All people invited may not attend. The district can invite only persons with direct educational knowledge or involvement with the student.

The team process should be a collaborative process between parents, school staff members and other professionals involved with your child. As a parent, you have a unique and critically important perspective on the child's learning style, strengths and needs. The school staff should ensure you feel comfortable when communicating with school staff.

You have the right to be involved in ALL meetings that discuss the identification, evaluation, IEP development and educational placement of your children. The law ensures you and school personnel are equal partners in all steps during the team process.

Student participation is important and students are considered important members of team meetings. As students get older, they should become more and more active at team meetings, and their interests and preferences should determine the direction for the identified goals and services in the IEP. Supporting active student participation in the team process assists students in developing self-determination skills, which are necessary in adult life. When students turn 17, school districts are required to advise students of their rights, including the right to attend team meetings and the importance of the corresponding responsibilities. If the student does not attend the meeting, the district must take other steps to ensure the student's preferences and interests are considered. It is not mandatory for the student to attend. The decision to attend is up to the student and his or her parents. A student should be encouraged to attend the IEP meetings when he or she reaches the 9th grade, or younger, if appropriate.

### **What is the Role of the Team?**

The team process has important, integrated steps. Under IDEIA-2004, the IEP process is a focal point for reaching improved outcomes for students with disabilities. This process is critically important to children with disabilities and must be carefully managed to ensure that the unique needs of the student are addressed. An appropriate evaluation, development of the IEP, appropriate services and periodic progress reports are crucial.

### **Re-evaluation**

A student who receives special education must have a re-evaluation at least every three years or more often, if necessary. The purpose is to determine if your child still requires special education and related services. You will be invited to a meeting to develop an evaluation plan. Again, the case manager will request your permission to complete the re-evaluation. Except for the initial placement and provision of services, the district will proceed with the proposed placement and provision of services unless you object in writing on the response form or otherwise in writing within 14 calendar days after you receive this notice.

### **Development of IFSP or IEP Documents**

An IEP is a legally binding contract detailing special education and related services to be provided for the student. Once the team has determined that the student is eligible for special education services, the type of Individualized Education Program (IFSP, IEP) is decided on, and then the document is developed.

### **IFSP**

An Individual Family Service Plan (IFSP) is for children under the age of 3 with a disability, based on needs developed by a multidisciplinary team, including parents. The IFSP should contain an assessment and program development, periodic review (i.e. 6 month interval), content of the plan, and parental consent. The Part C evaluation should be completed within 45 calendar days from the initial referral.

### **IEP**

An Individualized Education Plan (IEP) is for a student age 3 up to 21. Services need to begin within 30 calendar days from the date the student was found eligible. (See "What are the Contents of an IEP" for more detail.)

Contact the case manager if you have questions or concerns. Case managers can be any school personnel on your child's team. If the team is in agreement on the IEP/IFSP, services for the child should begin as soon as possible, but no later than 30 calendar days. It is your right to disagree with the proposed plan, however, this will affect when the child will start receiving services. (See section "What if I Disagree or Have Concerns with My Child's IEP?")

### **Before the meeting...**

Some things to think about before the meeting:

- What are the educational goals you have for your child, short and long term?
- Any concerns you may have.
- How does your child learn? What does and doesn't work?
- How does your child's disability affect his or her education? Learn all you can about your child's disability.
- Request the evaluation results before the IEP meeting.
- What are your child's strengths, interests and needs?
- Consider involving your child, when appropriate.
- Consider bringing someone with you such as a friend, relative, spouse or advocate.
- Consider inviting other professionals involved in your child's care such as doctors, therapists, Personal Care Assistant (PCA).

### **During the meeting...**

- Be a respectful listener.
- Share your thoughts.
- Ask questions: make sure you understand.
- Remember the meeting is about your child.
- If there is a completed IEP, take the document home and review it. You have 14 calendar days to sign it.

### **After the meeting...**

- Review your notes.
- Clarify any concerns.
- If items were agreed upon at the meeting, make sure they are written in the IEP.

# What are the Contents of an IEP?

By law, there are certain things an IEP must include about the student and the educational program designed to meet his or her needs. This information includes:

## **Present Levels of Academic Achievement and Functional Performance (PLAAPF)**

The IEP must state how the student is currently doing in school. This information comes from many sources and may include the evaluation of classroom tests and assignments, formal tests used to decide special education eligibility and observations from staff, teachers and parents. The "functional performance" includes how the student's disability affects his or her involvement and progress in the general education curriculum.

## **Goals and Objectives**

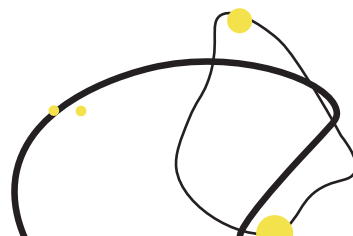
This section defines the areas of focus for educational planning. Goals describe what the student is expected to accomplish within a year of writing the IEP. The goals should be measurable. You should let the team know what goals are priorities for your family. Short-term objectives are the steps that help the student reach the goals. There must be at least two objectives for each goal.

## **Special Education and Related Services**

This area lists all services the district has agreed to provide. This is where direct and indirect services would be defined. It needs to be written here, if it is a service your child will receive. Indirect service means your child doesn't actually see that person, but someone on the team receives consultative services in regards to the student. Direct service is the time that the child is personally involved with the specified professional. This section also defines what the special education service is, where the child will receive services, the amount of time, the frequency of the service, when they are to begin and how long they will last.

## **Least Restrictive Environment (LRE) Explanation**

The IEP must explain how students with disabilities will be educated, to the maximum extent appropriate, with students without disabilities. The IEP must explain the extent (if any) the student will not participate with nondisabled students in the general classroom and other school activities. Special classes, separate schooling or other removal of students with disabilities from the general education environment may occur only when the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. If the student will not participate fully with nondisabled students in the regular classroom and other school activities, the IEP must include a statement indicating the reason(s) for the alternate environment.



### **Course of Study**

When the student reaches grade 9 (or before, if appropriate), the IEP must address the courses, services, etc., planned to help the student reach his or her post-high school goals. Transition needs must be addressed in each subsequent IEP.

### **Transition Activities and Services**

During a student's 9th grade year (or younger if appropriate), the IEP must state what transition activities and/or services are needed to help the child prepare for leaving school.

### **Transfer of Rights at Age of Majority**

Beginning at least one year before the child reaches the age of majority (18 years old), the IEP must state the student has been informed of any rights that will transfer to him or her at that time.

### **Progress Reporting**

The IEP must indicate the frequency, method and when student's progress on goals will be reported to the parent or guardian. Parents should be informed of progress at least as often as parents of children without disabilities.

### **Program Placement Decisions**

Once all the elements of the IEP are determined, including services and supports, a placement decision must be made. The first placement option considered for each student with a disability must be the general education classroom with the provision of needed aids and services. This is termed the least restrictive environment. The law requires that students not be placed outside of the general education classroom unless their disability requires another setting. The team must always consider the unique needs of the student before making the final placement determination. While the goal is to have children taught in their neighborhood school, this is not always appropriate. A student with specific needs may be placed in a program that best addresses his or her needs. That may mean the student will attend a school within the district but not his or her neighborhood school. Another school in the district may have a program geared towards a specific disability that may be more appropriate for the student.

### **Accommodations and Modifications**

Some students with disabilities may be able to participate in the general classroom and be successful with the use of accommodations or modifications. An accommodation allows students to do the same work as the other students but with a change that allows them to be more successful (i.e. taking a test in a quiet room rather than in the classroom). An accommodation does not alter the rigor of the material. A modification lowers the rigor of the material and changes what a test or assignment measures, as compared to the rest of the class. (i.e. a student only completing work on a portion of the material covered). Accommodations and modifications should be written into a student's IEP. The agreed upon changes should fit the student's individual needs. It is important to involve the student, as appropriate, in this process to get his or her ideas on what changes would be helpful.

### **Participation in State and District-Wide Tests**

Most states require achievement tests to be given at various grade levels. The IEP must state what modifications or accommodations are to be provided when the test is administered to the student. If the team determines the test is not appropriate, the IEP must state the reasons why and what alternative testing will be used instead.

### **Extended School Year**

School districts are required to provide extended school year services (ESY) to students if the IEP team determines the services are necessary during a break in instruction in order to provide a free appropriate public education. The criteria used to determine ESY eligibility should be reviewed yearly. A student qualifies for ESY if he/she meets any of the following criteria:

- There will be significant regression of a skill or acquired knowledge from the student's level of performance on an annual goal that requires more than the length of the break to recoup.
- Services are necessary to attain and maintain self-sufficiency skills.
- The IEP team otherwise determines that given the student's unique needs, ESY is necessary.

The team decides eligibility for ESY using information from prior observation of the student's regression and recoupment over breaks, either summer break or scheduled breaks in the school year. The team also may look at the student's degree of impairment and rate of progress, among other things.

### **Monitoring IEP Progress**

It is important to monitor the progress of your child. Take the IEP home and read it over, compare it to the last one and make sure you understand and agree with the goals and objectives. It also is important to review the amount of time that each specialist designates to serve your child. You DO NOT need to sign the IEP at the meeting. You have 14 calendar days to sign and return it. You can disagree with the IEP and state your concerns, which is your right as a parent. Put your disagreement in writing. The district needs to respond to your concerns within 14 calendar days. You are the best advocate for your child. Ask Questions.

Progress reviews for special education students must occur as often as they do for general education students. A parent may request reviews more often if the situation warrants. If a general education student receives three report cards, then a student in special education should get three progress reports on his or her IEP goals.

# Statewide Testing Guidelines for Students with IEPs

Minnesota measures school and student progress with tests called the Minnesota Comprehensive Assessments-II/III (MCA-II/III). The MCAs are accountability tests to see how well schools are performing. At the high school level, students are required pass the Graduation Required Assessment for Diploma (GRAD) in written composition, reading and mathematics. Students have multiple opportunities to pass the GRAD tests. Students with disabilities, in most cases, are included in these tests. After repeated attempts to pass the assessments required for graduation, an IEP team may determine an individual passing score for that student. The tests are administered at the following grade levels:

**Reading:** MCA or MTAS (grades 3-8, 10)

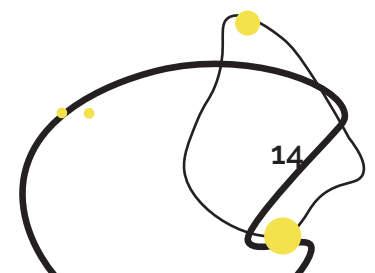
**Mathematics:** MCA or MTAS (grades 3-8, 11)

**Science:** MCA or MTAS (grades 5, 8, and once in high school)

The district also uses the assessment for students in grades 2-9.

Most students are tested in September and May. This is a nationally-standardized computer-adaptive test that provides teachers important diagnostic information on students to better assist teachers in targeting instruction to the child's learning level. Students with special education services are included in these testing requirements and it is up to the IEP team to determine what is appropriate for the student regarding these tests. If the team determines the material has been taught to the student and the student is capable of taking the test without any necessary accommodations, then the test will occur under standard conditions. The team may decide the student would not be able to participate in the testing without accommodations. If that is the case, the appropriate accommodations need to be implemented. An accommodation does not alter the rigor or reliability of the tests and it must be outlined in the student's IEP. Examples of allowed accommodations would be in the areas of:

- Setting
- Timing
- Presentation form
- Response format



The Minnesota Test of Academic Skills (MTAS) is an alternate assessment based on alternate achievement standards for students with the most significant cognitive disabilities. It is part of the Minnesota assessment program.

The MTAS measures reading, mathematics, and science skills that are linked to the general education curriculum. These skills represent high expectations for students with significant cognitive disabilities, but tasks to measure these skills are considerably less difficult than the items on the Minnesota Comprehensive Assessments (MCA).

The MTAS is one of the tests used to meet federal and state legislative requirements that may be taken in place of the MCA. Schools are responsible for meeting the educational needs of all students. Some students are unable to achieve grade-level proficiency due to their disability, and the MTAS helps ensure that schools provide access to reading, mathematics, and science instruction that is linked to the Minnesota Academic Standards at the student's grade level to the extent appropriate. Your child's Individualized Educational Program (IEP) may indicate a need for specialized instruction in both functional and academic skills. The MTAS is designed to measure student progress on academic skills.

All students in public schools are required to participate in the statewide assessment program. The MTAS may be appropriate for certain students with IEPs who have the most significant cognitive disabilities. Students may take the MTAS in reading, mathematics, and/or science instead of the MCA. The IEP team is responsible for determining how the student participates in statewide testing.





## What if I Disagree or Have Concerns with My Child's IEP?

An IEP is a legally binding contract. Items agreed to at a team meeting should be included in writing in this document. If services documented in the IEP are not administered, the school district is in non-compliance. You should contact the IEP manager if the IEP is not being followed. If the IEP manager is unable to help, the next step is to speak with the school principal. If necessary, the Director of Special Education should then be contacted. A final option would be to contact the Minnesota Department of Education (MDE). It will provide you with information on steps to address the non-compliance. MDE periodically monitors each school district for compliance.

You have the right to disagree with the school district's decisions concerning IEPs, evaluations or educational placements for your child. It is not uncommon for differences to arise between members of the student's IEP team. It is important to remember that everyone on the team has the child's best interest in mind and wants the student to be successful. With that said, disputes do arise. There are many options available to help resolve differences. These options are available to you and the school district. It is important you put your requests in writing and keep a copy for yourself.

### **The following are options available for resolving disputes**

#### **Conciliation**

A conciliation conference is a discussion between the parents and school staff, often following an IEP team meeting that did not result in an agreed upon IEP. Conciliation must be offered to parents if they object to a proposed IEP as an attempt to resolve any disputes between the parties that are creating barriers to developing an appropriate IEP. You have a right to object to any action the district proposes within 14 calendar days of when the district sends you the prior written notice of their proposal. If you object to the district's proposal, you have the right to request a conciliation conference, mediation, facilitated IEP team meeting or a due process hearing. Within ten calendar days from the date the district receives notice of your objection to its proposal or refusal in the district's prior written notice, the district will ask you to attend a conciliation conference.

Except as provided under Minnesota Statutes, section 125A.091, all discussions held during a conciliation conference are confidential and are not admissible in a due process hearing. Within five days after the final conciliation conference, the district must prepare and provide to you a conciliation conference memorandum that describes the district's final proposed offer of service. This memorandum is admissible evidence in any subsequent proceeding.

### **Mediation**

Mediation is a free, voluntary process to help resolve disputes. You or your district may request free mediation from the Minnesota Department of Education's Special Education Alternative Dispute Resolution program at 651-582-8222 or 1-866-466-7367. Mediation uses a neutral third party trained in dispute resolution techniques. Mediation may not be used to deny or delay your right to a due process hearing. Both you and district staff must agree to try mediation before a mediator can be assigned. At any time during the mediation, you or the district may end the mediation.

If you and the district resolve all or a portion of the dispute or agree to use another procedure to resolve the dispute, the mediator shall ensure that the resolution or agreement is in writing and signed by both you and the district and that both parties receive a copy of the document. The written resolution or agreement shall state that all discussions that occurred during mediation are confidential and may not be used as evidence in any hearing or civil proceeding. The resolution or agreement is legally binding on both you and the district and is enforceable in state or federal district court. You or the district can request another mediation to resolve a dispute over implementing the mediation agreement.

### **Facilitated IEP Meeting**

If you and the school are having trouble writing your child's special education plan, a neutral third person, a facilitator, will work through the process with your child's individualized education program (IEP), individualized family service plan (IFSP), or multi-agency team and help solve any disagreements along the way.

The facilitator leads a team meeting to promote effective communication and assist a team in developing an IEP. The facilitator helps to keep members of the team focused on the student while addressing conflicts and disagreements that may arise during the meeting.

The entire IEP team participates in the facilitated team meeting. The facilitator is present but not as a member of the team. The same requirements for attendance at an IEP meeting apply when the parties are attending a facilitated IEP meeting. We recommend that a parent advocate participate as well.

The facilitator is impartial and does not make decisions or provide legal advice.

The facilitator models and helps maintain open and respectful communication among team members as well as offering ways to address and resolve conflicts that may arise in the meeting. The facilitator keeps the IEP team focused on the student's needs while developing or revising an IEP.

### **Special Education Complaint**

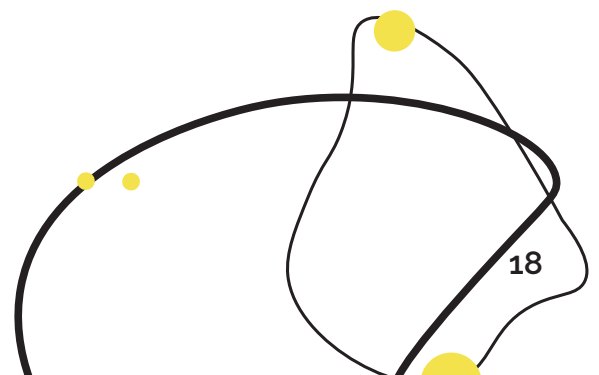
The special education complaint system is designed to ensure that all children (birth through age 21) with disabilities are provided a free appropriate public education (FAPE).

Parents, individuals, or organizations may file a signed, written complaint with the Minnesota Department of Education (MDE) if they believe a district or public education agency has violated federal or state special education requirements. 34 C.F.R. 300.151-300.153.

The complaint must allege a violation that occurred not more than one year prior to the date MDE receives the complaint. 34 C.F.R. 300.151. The party filing the complaint must forward a copy of the complaint to the district or public education agency serving the child at the same time the party files the complaint with MDE. 34 C.F.R. 300.153.

MDE is only authorized to investigate complaints regarding special education. A complaint investigation and mediation can be requested at the same time. If a complaint investigation and a due process hearing are requested on the same issues, the complaint will remain on hold until the due process hearing has ended.

When you file a special education complaint with the Minnesota Department of Education (MDE), you are asking us to investigate your concerns and decide if a school violated special education law. Additional resources can be found at: <https://education.mn.gov/MDE/dse/sped/conf/Comp/index.htm>



### **Impartial Due Process Hearing**

Both you and the district have a right to request an impartial due process hearing in writing within two years of the date you or the agency knew or should have known about the alleged action that forms the basis of the due process complaint.

A due process hearing can be requested regarding a proposal or refusal to initiate or change a child's evaluation, IEP, educational placement, or to provide FAPE.

A due process hearing may address any matter related to the identification, evaluation, educational placement, manifestation determination or provision of a free appropriate public education of your child. Within 15 days of receiving notice of your due process complaint, and prior to the due process hearing, the school district must arrange for a resolution meeting with you and the relevant members of the IEP Team who have knowledge of the facts alleged in the due process complaint.

The purpose of this meeting is for you to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the school district has the opportunity to resolve the dispute that is the basis for the due process complaint.

The resolution meeting need not be held if you and the school district agree in writing to waive the meeting or agree to mediation. A resolution meeting is also not required to be held when the district is the party who requests a due process hearing.

If the matter is not resolved within 30 days of receipt of the due process complaint, the hearing timelines begin.

If the school district is unable to obtain your participation in the resolution meeting or mediation after reasonable efforts have been made and the school district does not agree to waive the meeting in writing, the school district may, at the conclusion of the 30-day period, request that a hearing officer dismiss your due process complaint.

### **Loss of Right to a Due Process Hearing**

Due to an interpretation of state law by the 8th Circuit Court of Appeals, if your child changes school districts and you do not request a due process hearing before your child enrolls in a new district, you may lose the right to have a due process hearing about any special education issues that arose in the previous district. You do still have a right to request a due process hearing about special education issues that may arise in the new district where your child is attending.

## Disciplining Students with Disabilities

There is nothing in IDEIA-2004 that restricts schools from disciplining a student with a disability. School systems have the legal responsibility to provide a safe, violence-free environment including a code of conduct containing specific consequences for violating the code. School systems have the legal right and responsibility to discipline students and to ensure all students and parents are familiar with the discipline code. Some students may need specialized services to change disruptive or dangerous behavior and to prevent reoccurrences. Consequently, it may be necessary to develop some goals to achieve proper behavior, which would then be included in the student's IEP. Special education students are subject to the same rules and codes of conduct as non-special education students. The only difference is the consequences for misbehavior by students in special education are decided on an individual basis.

The law states that schools shall consider strategies, including positive behavioral interventions, and supports to address the behavior that impedes learning. It is the responsibility of the IEP team to review the discipline code and develop a behavior plan if it is needed. Behavioral goals should be measurable, reviewed and modified as necessary. When students with disabilities develop a new pattern of problematic behavior, an IEP meeting should be scheduled to determine if additional interventions or modifications are necessary and the team may consider a functional behavioral assessment.

When the disciplinary action rises to the suspension level, especially a five-day suspension or greater, the IEP team needs to determine if the behavior is related to the disability by completing a manifestation determination. If it is not related to the student's disability, the consequences from the code of conduct will apply. A manifestation determination establishes whether the inappropriate behavior is a result of the student's disability, which must be conducted in the following situations:

- Parent request following any removal for disciplinary reasons.
- Student is suspended for five or more consecutive school days.
- Student is removed for more than 10 cumulative school days in a school year or more.

The IEP team determines if the misconduct is related to the disability and if the current placement is appropriate. When a suspension exceeds five consecutive days, the district must provide alternative educational services to students with IEPs. A special education student may be placed in a 45-day interim placement by the school if a drug or weapons violation occurs. A team meeting will be conducted to complete a manifestation determination and to discuss a functional behavioral assessment prior to the interim placement.



# Functional Behavior Assessment

**A Functional Behavior Assessment (FBA) is a tool used by the IEP team to**

- Understand why behavior happens and/or why it doesn't happen.
- Develop better, quantifiable goals and objectives for conduct and social skills.

**A FBA allows a behavior to be broken down into its components and allows the team to**

- Complete a clear description of the problem behaviors.
- Identify the events, times, and situations that predict when the problem behavior will and will not occur.
- Identify the consequences that maintain the problem behaviors; that is, what functions do the behaviors appear to serve for the individual.
- Develop one or more summary statements or hypotheses that describe the specific behaviors, identify where they occur, and identify the outcomes or reinforcers that maintain the behaviors in those situations.

**An IEP team must meet to develop an FBA plan in the following situations**

- Parent request.
- Student is suspended for 10 or more school days in a school year.
- Student is exhibiting challenging behavior or a new challenging behavior whereby the IEP team determines an FBA would be warranted to gather data on:
  - Behavior that results in self-injury or injury to others.
  - Behavior that causes damage to the physical environment.
  - Behavior that interferes with learning by the student or others.
  - Behavior that socially isolates the student.
  - Student is undergoing an initial evaluation.
  - Student is undergoing a three-year re-evaluation and has not previously had a FBA.
  - Student is being referred for a more restrictive special education placement.
  - During development of a Positive Behavior Support Plan for the student.

A Positive Behavior Support Plan (PBSP) may then be developed by the IEP team utilizing the data collected in the FBA. A Positive Behavior Support Plan (PBSP) may then be developed after an FBA has been completed, if the student demonstrates behaviors that may require procedures such as physical restraints to help maintain the student's and staff members' safety or if a student is to be secluded from peers. The PBSP also may include a description of recommended interventions and a hierarchy of consequences utilizing a positive and proactive approach.

# Transition

In Minnesota, there are laws that require school districts to prepare students with disabilities to progress and move from high school to community life and employment. The first part is the planning for a student's future, which is written into the IEP. The second part of the transition is the providing of transition services.

## Transition Planning

When a student with a disability receiving special education services reaches 9th grade, the IEP will begin to incorporate three transition areas. These transition areas are to help plan what skills the student will need to work on to prepare for life beyond high school.

The three transition areas are:

1. Education or Training
2. Employment
3. Independent Living (incorporates home living, recreation and leisure and community participation)

The student and the IEP team will establish the present level of academic achievement and functional performance (PLAAFP) in each of the three transition areas and the individual educational needs of the student.

When the IEP team determines a student has a transition need, it must be written into the IEP. Support for these needs may include instruction, services, activities, accommodations, supplementary aids, resources, community experience and other assistance.

## Transition Services

During a student's 9th grade year (and sometimes younger), a student in special education may need significant services outside of the school district with functional skills to help the student move from high school to adult life. Services focus on the student's needs, interests, education or training goals, employment and independent living skills. Examples of transition services may include but are not limited to: transportation, community links with other services, job skills and supported employment experience.

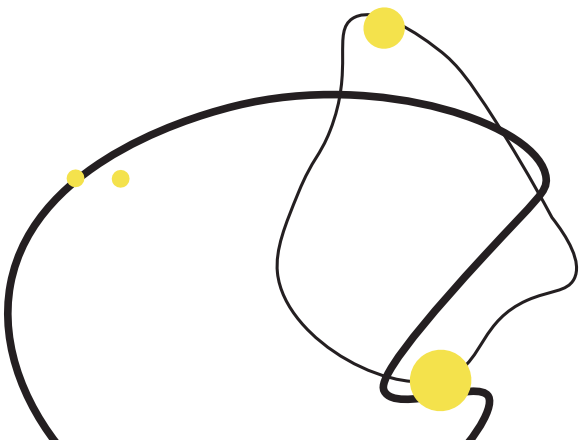
Transition services may be provided for students younger than the 9th grade if the student is at risk of dropping out of school or if services could help with other educational needs.

### **Transfer of Parental Rights**

Before a student in special education legally becomes an adult (in Minnesota the legal age is 18), the school district must notify the student and the student's parents or guardians that the parental rights and procedural safeguards will transfer to the student at the age of majority. This needs to occur at least one year before the student turns 18.

### **Special Education Services for Ages 18-21**

Students continue to work on transition IEP goals in the three transition areas: education or training, employment and independent living (including community, recreation and leisure and home living). Students are able to earn their high school diploma by achieving their IEP goals.





## Acronyms

<b>ASD</b>	Autism Spectrum Disorder
<b>AT</b>	Assistive Technology
<b>CST</b>	Child Study Team
<b>D/HH</b>	Deaf and Hard of Hearing
<b>DAPE</b>	Developmental Adaptive Physical Education
<b>DCD</b>	Developmental Cognitive Disability
<b>EBD</b>	Emotional or Behavioral Disorder
<b>ECFE</b>	Early Childhood Family Education
<b>ECSE</b>	Early Childhood Special Education
<b>ER</b>	Evaluation Report
<b>ESY</b>	Extended School Year
<b>FAPE</b>	Free Appropriate Public Education
<b>FBA</b>	Functional Behavior Assessment
<b>IDEA</b>	Individuals with Disabilities Education Act
<b>IEE</b>	Independent Education Evaluation
<b>IEP</b>	Individualized Education Plan
<b>IFSP</b>	Individual Family Service Plan
<b>IIIP</b>	Individual Interagency Intervention Plan
<b>LRE</b>	Least Restrictive Environment
<b>MCA</b>	Minnesota Comprehensive Assessments
<b>MDE</b>	Minnesota Department of Education
<b>OHD</b>	Other Health Disabilities
<b>PCA</b>	Personal Care Assistant
<b>PBSP</b>	Positive Behavior Support Plan
<b>PI</b>	Physically Impaired
<b>S/L</b>	Speech or Language Impairment
<b>SEAC</b>	Special Education Advisory Council
<b>SLD</b>	Specific Learning Disability
<b>SMI</b>	Severely Multiply Impaired
<b>TBI</b>	Traumatic Brain Injury
<b>VI</b>	Visually Impaired

# Questions to Consider Asking

## Evaluation

- Why do you want to do an evaluation? Can you explain the reason for evaluating my child?
- What kind of information will we receive from an evaluation?
- What kind of testing will be done? What areas will be tested?
- How long will it take to evaluate?
- Who will complete the testing?
- Where will the testing take place? Will my child be pulled from his/her regular classes to complete the testing?
- Would you like to know what medications my child is taking?
- What will happen if I say no to the evaluation?
- What does "qualify" mean? How does a child qualify and what happens if they don't?
- Will I get a copy of the evaluation results?
- What do I do if I disagree with the evaluation results?
- If the evaluation indicates that my child is eligible for special education, do I have to agree to special education services?

## IEP Services

- What is an IEP? What is the process? What does this do for my child?
- Who will be on my child's team?
- Will my child be pulled out of their classroom to receive services?
- How much time spent away from general education peers? Will he/she be pulled from core classes (i.e. reading/math)?
- Would you like to know what outside therapies my child receives? How will the IEP team communicate with outside therapies/agencies?
- Are students with disabilities accepted in the culture of the school?
- What are related services? How can students access related services?
- How do I best communicate with special education staff? Who do I contact if I have questions?
- How is progress reported to parents? How many times a year is progress reported?
- How will my child's accommodations and needs be communicated to the classroom teacher?
- Will my child's special education information be kept confidential and given out on a need to know basis?

## General

- How are the ECSE programs different from the elementary programs?
- How are elementary programs different from secondary programs?
- Are there community or private services and how do I access them?
- What do I do with all of the paperwork I am given?
- Can I remove my child from special education services if I want to, and if so, what would happen?

## Frequently Used Terms

**Accommodation:** allows the student to do the same work as the regular education students with a change (i.e. taking tests in a quiet room). This change does not change the rigor of the material being taught.

**Adaptations:** word used interchangeable with accommodation.

**Assistive Technology Device:** any item, piece of equipment or product system that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

**Assistive Technology Service:** any service that directly assists a student in the selection, acquisition or use of an assistive technology device.

**Case Manager:** the person who coordinates a student's IEP and sees that it is carried out. This person is the first point of contact for any issues or concerns that you may have.

**Child Study Team:** team that determines if an evaluation is warranted.

**Consent:** means that you say "yes." Consent means that you understand and agree in writing to the activity that is being requested, such as an evaluation or an IEP.

**Curriculum:** the coursework being taught.

**Direct Service:** service provided directly to the student from the professional.

**Evaluation:** testing and observations used to determine the eligibility of the student for special education services.

**Inclusion-Full:** student that qualifies for special education and spends the entire school day in the general education classroom.

**Inclusion-Partial:** student that qualifies for special education and spends part of the school day in the general education classroom.



**IEE (Independent Educational Evaluation):** An evaluation provided by a mutually agreed upon independent professional at no cost to you. The school district is required to give you several choices of qualified professionals to perform the IEE. You can then choose which professional conducts the IEE. To request an IEE, you need to notify, in writing, the Director of Special Education that you disagree with the district's evaluation and are requesting an IEE. Keep a copy for yourself as well. You also have the right to a second opinion at any time at your own expense. The school district must consider this information.

**IEP (Individualized Education Plan):** An educational service plan for a student age 3 up to 21. Services need to begin within 30 calendar days from the date the student was found eligible.

**IEP Team:** The group of people responsible for defining a student's educational plan. The Team must include:

- A parent.
- A representative of the district who is authorized to assign resources.
- At least one of the student's special education teachers.
- At least one of the student's general education teachers.
- Student, if appropriate
  - There may be more team members as appropriate.

**IFSP (Individual Family Service Plan):** A plan is for children in Early Childhood Special Education (birth through age 2). The development of the IFSP should be completed within 45 calendar days from the initial referral.

**Indirect Service:** Time spent conferring and coming up with ideas to help the student.

**LRE (Least Restrictive Environment):** The educational setting appropriate to meet the individual student's needs that provides the opportunity to be educated with nondisabled peers, to the greatest extent appropriate.

**Modification:** A change that lowers the rigor of the material and changes what a test or assignment measures.

**PCA (Personal Care Assistant):** An individual helping a child learn skills so he or she can be more independent at school, home and in the community.



**Positive Behavior Support Plan (PBSP):** A plan to address problem behaviors; it addresses both the source of the behavior and ways to deal with the behavior so the student can behave more appropriately.

**Pre-Referral Interventions:** Before referring a child for an evaluation, the classroom teacher may plan strategies to see if your child's behavior improves with simple changes in curriculum or environment. These are called "pre-referral interventions." At least two pre-referral interventions must be tried and documented. If the child's performance improves, an evaluation may not be needed. If problems continue, an evaluation will help identify more specific ways to help the child learn.

**Referral:** Anyone can make a referral for a special education evaluation. When classroom interventions are not successful, the classroom teacher may make a referral for a Child Study Team to consider whether the child should receive further evaluation. The team decides the areas to be evaluated and the types of evaluation to be completed.

**Related Services:** Services required to make a child benefit from special education. An example may be transportation or occupational therapy.

**Response to Intervention (RtI):** A 3-tiered model of instructional support available for all elementary students. It includes providing high quality instruction and interventions matched to student need, monitoring progress frequently to make changes in instruction, and applying child response data to important educational decisions.

**Resource Room:** A room other than a general education classroom where a student may receive his or her special education services. The room is a special education setting.

**Section 504: A Federal Civil Rights Law:** It protects the rights of individuals with disabilities in programs and activities that receive federal financial assistance. Section 504 falls under the responsibility of the general education program. A student is considered to have a disability within the definition of Section 504 if he or she: has a mental or physical impairment that substantially limits one or more of such person's major life activities; has a record of such impairments; or is regarded as having such impairment. If your child is evaluated and does not qualify for special education, he or she may qualify under Section 504 if the disability substantially limits one or more major life activities. A team decision is required to make this determination. A 504 plan may provide for regular or special education and related aids and services designed to meet the student's needs as adequately as the needs of non-disabled students are met.

## Parent Support Information

### **Procedural Safeguards**

Procedural Safeguards Notices also referred to as Parental Rights, give general guidance regarding special education rights afforded to parents of children with special education needs. These rights are provided to parents under the Individuals with Disabilities Education Act (IDEA). It is provided to parents of students receiving special education services at least one time per year. It also is provided the first time your child is referred for a special education evaluation. Procedural Safeguards Notice Part C is for birth through age 2;

Part C is for birth through age 2

Part B is for age 3 through 21.

Website: <https://education.mn.gov/fam/sped/rights/index.nfm>

### **The Arc of Minnesota**

Private, non-profit, statewide voluntary organization to promote and protect the human rights of people with intellectual and developmental disabilities and actively support their full inclusion and participation in the community throughout their lifetimes.

Phone: 952-920-0855

Toll-free 833-450-1494

Website: <https://arcminnesota.org/>

### **Autism Society of Minnesota (AuSM)**

Organization of families, educators, caregivers and professionals committed to supporting individuals with autism spectrum disorders.

Phone: 651-647-1083

Website: [www.ausm.org](http://www.ausm.org)

Email: [info@ausm.org](mailto:info@ausm.org)

### **Brain Injury Association of Minnesota**

Non-profit organization dedicated to enhancing the quality of life for Minnesotans affected by brain injury.

Phone: 800-669-6442 or 612-378-2742

Website: [www.braininjurymn.org](http://www.braininjurymn.org)

### **Children and Adults with Attention Deficit/Hyperactivity Disorder (CHADD)**

Non-profit organization serving individuals with ADHD and their families.

For Help Call: 800-233-4050

Website: [www.chadd.org](http://www.chadd.org)

### **Down Syndrome Association of Minnesota**

Non-profit organization dedicated to provide information, resources and support to individuals with Down syndrome, their families and their communities.

Phone: 800-511-3696 or 651-603-0720

Website: [www.dsamn.org](http://www.dsamn.org)

### **Epilepsy Foundation of Minnesota**

Non-profit organization that offers programs and services to educate, connect and empower people affected by seizures.

Phone: 800-779-0777 or 651-287-2300

Website: [www.efmn.org](http://www.efmn.org)

### **Minnesota Association for Children's Mental Health (MACMH)**

Organization focused on promoting positive mental health for all infants, children, adolescents and their families.

Phone: 800-528-4511 or 651-644-7333

Website: [www.macmh.org](http://www.macmh.org)

### **Minnesota Association of Deaf Citizens (MADC)**

Non-profit organization that advocates for and promotes a better quality of life and social wellness of Deaf people through its membership, activities and advocacy.

Website: [www.minndeaf.org](http://www.minndeaf.org)

### **Minnesota Children and Youth with Special Health Needs (MCYSHN)**

Public, statewide program that seeks to improve the quality of life for children with special health needs and their families. They promote the optimal health, well-being, respect and dignity of children and youth with special health needs and their families.

Phone: 800-728-5420 or 651-201-3651 or 651-201-5000

Website: [www.health.state.mn.us/cyshn](http://www.health.state.mn.us/cyshn)

### **Minnesota Department of Education (MDE)**

State agency responsible for providing laws and rules regarding special education in Minnesota, disability definitions and criteria, information for parents and students, and much more.

Phone: 651-582-8200

Website: [www.educationmn.gov/MDE/index](http://www.educationmn.gov/MDE/index)

### **Minnesota Department of Human Services (DHS)**

State agency that provides Minnesotans with a variety of services intended to help people live as independently as possible.

Phone: 651-431-2000

Website: [www.dhs.state.mn.us](http://www.dhs.state.mn.us)

### **Minnesota Speech-Language-Hearing Association (MSHA)**

Non-profit professional organization of speech-language pathologists and audiologists that promotes the welfare of individuals with communication disorders and represents the professionals who serve them.

Phone: 855-727-2837

Website: [www.msha.org](http://www.msha.org)

### **Tourette Syndrome Association of Minnesota**

Non-profit organization formed within the state of Minnesota focused on helping the individuals and families affected by Tourette Syndrome.

Phone: 612-759-7112

Website: [www.tourette.org/chapter/mn/](http://www.tourette.org/chapter/mn/)

### **Muscular Dystrophy Association (MDA)**

Non-profit health agency dedicated to curing muscular dystrophy, ALS and related diseases by funding worldwide research. The association also provides comprehensive health care and support services, advocacy and education.

Phone: 800-572-1717 or 952-832-5517

Website: [www.mdaua.org](http://www.mdaua.org)

### **National Alliance on Mental Illness Minnesota (NAMI Minnesota)**

Non-profit organization dedicated to improving the lives of adults and children with mental illness and their families through education, support and advocacy.

Phone: 651-645-2948

Website: [www.namihelps.org](http://www.namihelps.org)

### **Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities**

Independent state agency that promotes the highest attainable standards of treatment, competence, efficiency, and justice for persons receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance.

Phone: 800-657-3506 or 651-757-1800

Website: [www.ombudmhm.state.mn.us](http://www.ombudmhm.state.mn.us)

### **National Federation of the Blind of Minnesota (NFBM)**

Non-profit organization provides self-help programs for blind people of all ages and activities.

Phone: 612-872-9363

Website: [www.nfbmn.org](http://www.nfbmn.org)



### **PACER Center (Parent Advocacy Coalition for Educational Rights)**

Non-profit organization provides training and information for families of children and youth with all disabilities from birth through 21 years old. Parents can find publications, workshops, and other resources to help make decisions about education, vocational training, employment, and other services for their children with disabilities.

Phone: 800-537-2237 or 952-838-9000

Website: [www.pacer.org](http://www.pacer.org)

### **Spina Bifida Association of Minnesota**

Non-profit organization dedicated to increase awareness about Spina Bifida and enhance the lives of those affected.

Phone: 651-222-6395

Website: [mnsba.org](http://mnsba.org)

### **United Cerebral Palsy of Minnesota (UCP of MN)**

Non-profit organization driven to educate, advocate and provide support services to ensure a life without limits for people with a spectrum of disabilities. UCP of MN serves the residents of Minnesota in all counties except Stearns, Benton and Sherburne counties. These counties receive services from UCP of Central Minnesota.

Phone: 877-528-5678 or 651-265-7361

Website: [www.ucpmn.org](http://www.ucpmn.org)

### **Minnesota State Council on Disability (MSCOD)**

Agency that collaborates, advocates, advises and provides information to expand opportunities, increase the quality of life and empower all persons with disabilities.

Phone: 651-361-7800 or 1-800-945-8913

Website: [www.disability.state.mn.us](http://www.disability.state.mn.us)

### **Special Olympics Minnesota**

Organization that offers children and adults with intellectual disabilities year-round sports training and competition.

Phone: 612-333-0999

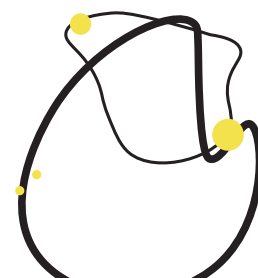
Website: [www.somn.org](http://www.somn.org)

### **U.S. Department of Education, Office of Special Education Programs**

Federal agency dedicated to improving results for infants, toddlers, children and youth with disabilities ages birth through 21 by providing leadership and financial support to assist states and local districts.

Phone: 202-245-7468

Website: [www.ed.gov/about/offices/list/osers/osep](http://www.ed.gov/about/offices/list/osers/osep)



## Community Support

Schools are responsible for the educational needs of students. Some students with disabilities, and their families, have needs that extend beyond the school. The information in this section is intended to provide an overview of some resources outside the schools.

### **Welcome to Minnesota Prairie County Alliance**

Minnesota Prairie County Alliance provides extraordinary human services that build safety, health & well-being in the communities of Dodge, Steele & Waseca counties.  
1-888-850-9419

### **South Central Relations Center**

Welcome to South Central Human Relations Center. Founded in 1964, the organization is a private, non-profit dedicated to improving the mental health of individuals and families within Dodge, Steele, and Waseca counties. We are committed to treating our clients with respect and dignity while helping them move their lives forward.  
507-451-2630 | 1-800-722-0590

24/7 Crisis Line: 1-844-CRISIS2 or 1-844-274-7472

### **Five Rivers Mental Health Clinic**

103 North Broad Street Mankato, MN 56001  
507-345-7012

### **Adult Child Family Services**

1400 Madison Ave, Mankato MN 56001  
acfsmankato.org  
507-387-3777

### **Counseling Services of Southern MN**

counseling-services.org  
507-931-8040

