

**FAIRFAX COUNTY PUBLIC  
SCHOOLS**

**PROCEDURES  
REQUIRED FOR IMPLEMENTATION  
OF SPECIAL EDUCATION  
REGULATIONS IN  
VIRGINIA'S PUBLIC SCHOOLS**

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## CHILD FIND

Fairfax County Public Schools (FCPS) is required to inform the community of an individual's right to a free, appropriate public education and the availability of programs and services, including special education. FCPS has a responsibility to actively and continuously identify, locate, and evaluate those children, birth to age 21, inclusive, residing in Fairfax County who are in need of special education and related services.<sup>1</sup>

FCPS engages in a public awareness campaign in order to identify all children who may be suspected of having a disability by communicating with child care facilities and physicians located within Fairfax County. Additionally, FCPS conducts an annual meeting with representatives from private schools and parents who have placed their children in private school or who home-school about special education and how to refer a student for special education evaluation and service options available should their child be eligible.

FCPS has an ongoing relationship with Infant and Toddler Connection (ITC) of Fairfax/Falls Church in order to assist in identifying children ages birth through two. Parents, providers, or medical providers who have concerns regarding a child in this age range should contact ITC for information regarding a referral. Interagency collaboration ensures that children identified early experience a seamless transition to services within FCPS upon turning age three by September 30 of the school year.

If a parent has concerns regarding their child ages two through four, inclusive, they should contact one of FCPS' early childhood assessment sites located at Dunn Loring Administrative Center, Virginia Hills Administrative Center, or Bull Run Elementary School. Upon contact, information will be provided regarding interventions, workshops, screening, and evaluations.

FCPS school-based administrators and teachers monitor progress of school-age students and provide specific interventions, as needed, to ensure appropriate instructional practices and to afford children and youth success in learning. Should an administrator, teacher, or parent believe that there is reason to suspect a child has a disability and is in need of special education, even if they are progressing from grade to grade, they should make a referral to the school's local screening committee (LCS). The local screening committee follows procedures as outlined in this manual in order to determine if there is sufficient information to suspect a disability and to warrant an evaluation for special education.

FCPS is responsible for identifying, locating, and evaluating those children who reside in Fairfax County but who are placed by their parents in a private school in Fairfax County. Parents or teachers of a resident child parentally placed in a private school located in Fairfax County, or is home-instructed, who believe there is reason to suspect

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<sup>1</sup> Children suspected of having a disability may also be considered for adaptations and accommodations under Section 504 of the Rehabilitation Act of 1973. Please refer to Fairfax County Public Schools Regulation 1454.

a child has a disability and is in need of special education, should contact the principal of their student's FCPS base school. A referral is completed and forwarded to the LSC. The local screening committee follows procedures as outlined in this manual in order to determine if there is sufficient information to suspect a disability and to warrant an evaluation for special education. The student will be required to register at the base school in order to receive a student identification number needed for data management purposes. Registration at the base school does not mean that the student is enrolled to attend an FCPS school. The cost of child find activities for private school students, including individual evaluations if warranted, are not considered in determining if FCPS has met its obligations for calculating expenditures under federal and state regulations governing special education.

Parents or teachers of a non-resident child parentally placed in a private school located in Fairfax County, who believe there is reason to suspect a child has a disability and is in need of special education, should contact the principal of the FCPS school closest to the private school. A referral is completed and forwarded to the local screening committee. The LSC follows procedures as outlined in this manual in order to determine if there is sufficient information to suspect a disability and to warrant an evaluation for special education. The student will be required to register at the FCPS school in order to receive a student identification number needed for data management purposes. Registration at the FCPS school does not mean that the student is enrolled to attend an FCPS school. The cost of child find activities for private school students, including individual evaluations if warranted, are not considered in determining if FCPS has met its obligations for calculating expenditures under federal and state regulations governing special education.

FCPS child find responsibilities extend to all children, including those who are highly mobile or homeless, wards of the state, or who are incarcerated.

## **SCREENING**

The screening process for all children enrolled in Fairfax County Public Schools, including transfers from out of state, includes the following:

- Upon initial enrollment, all students through grade 3 must be screened in the areas of speech, voice, and language, and for fine and gross motor functions.
- Upon initial enrollment, all students must be screened in the areas of vision and hearing.
- All students in grades 3, 7, and 10 must be screened in the areas of vision and hearing during the school year.

Appropriate school personnel in conjunction with staff members from the Fairfax County Health Department provide screening as required.

## **General Screening Procedures**

The principal must ensure that, within 60 business days of initial enrollment in FCPS, all students are screened in the areas of vision and hearing. Students, kindergarten through grade 3, must also be screened in speech, voice, and language, and in fine and gross-motor skills. The screening may take place up to 60 business days prior to the start of school. Screenings reported as part of a preschool physical examination may be recognized if completed within the 60 business day time frame. All children in grades 3, 7, and 10 must be screened in the areas of vision and hearing during the school year. Students are screened for scoliosis consistent with FCPS Regulation 2103.

Specific measures or instruments will be employed which use:

- Both observational and performance techniques.
- Techniques that guarantee nondiscrimination.

Students who fail any of the above screenings may be rescreened after 60 business days if the original results are not considered valid.

Parental permission is not required for screening. Written notice will be provided to parents of the scheduled screening. If the student fails the screening, the results of the screening must be provided to the parents.

The school staff must maintain a record of students who have participated in the screening and the screening results by completing *Screening Record for Students Newly Enrolled in FCPS* (SS/SE-20) and ensure that it is filed in a confidential manner in the student's scholastic record.

If results suggest that a referral for evaluation for special education and related services is indicated, students must be referred to the local screening committee within five business days after the screening.

## **LOCAL SCREENING COMMITTEE**

A local screening committee (LSC) must be established in each school to:

- Review records and other performance evidence of students being referred to make recommendations to meet the students' education and behavioral needs and/or determine whether an evaluation for special education is warranted.
- Determine assessments that are required if an evaluation is warranted.
- Obtain informed written consent from parent(s).
- Ensure completion of assessments.
- Forward the completed assessments to the eligibility committee for determination of eligibility for special education services.

The local screening committee must consist of the following members:

- Principal or designee
  - If a designee, that individual must be qualified to provide or supervise the provision of special education, be knowledgeable about the general curriculum, and be knowledgeable about the availability of the resources of FCPS.
- School psychologist
- Special education teacher
- Regular education teacher
- Other school staff members, as appropriate
- The referral source, as appropriate, except if inclusion would breach the confidentiality of the student.

One member of the committee must be knowledgeable about alternative interventions and about procedures required to access programs and services that are available to assist with students' educational needs.

### **Referral to Local Screening Committee**

When there is reason to suspect that a student has a disability and is in need of special education and related services, a referral should be made to the local screening committee. Referrals can be made in written, electronic or oral form by parents or staff, the Virginia Department of Education, any other state agency or other individuals regarding children who are residents of the locality or who attend a private school within Fairfax County. Each FCPS school should have a designated staff member responsible for receiving referrals to the local screening committee. All referrals should be forwarded to this designated person. If a parent makes a referral to a teacher, the parent should be directed to the designated staff member to make the referral. Referrals should be made through the use of the *Multi-Purpose Referral (SS/SE-5)* form. If the parent(s) makes a referral orally, they may be asked to complete the *Multi-Purpose Referral* form or the *Multi-Purpose Referral* form may be completed by appropriate school staff members. Whether received orally, electronically or in writing, the date the referral is received by the school's designated staff member must be noted on the *Multi-Purpose Referral* form, as this date begins mandated timelines.

Page two of the *Multi-Purpose Referral (SS/SE-5A)* form must be completed by the student's classroom teacher or other appropriate school staff members, prior to the local screening committee meeting.

### **Local Screening Committee Meeting**

The local screening committee must meet within 10 days of receipt of the referral. Parents must be provided *Notice of Local Screening Committee Meeting (SS/SE-83)* early enough to ensure that they will have an opportunity to participate and in the parents' native language or primary mode of communication, unless it is clearly not feasible to do so. Should the parents be unavailable to attend within the 10 day

timeline, the local screening committee must convene, make a determination regarding evaluation for special education, and provide parents documentation of the decision.

The local screening committee shall review the records and all performance evidence of the student being referred in order to make recommendations to meet the student's educational and behavioral need and determine if there is sufficient evidence to suspect a disability. Information reviewed shall include, but is not limited to, all individual and group standardized assessments, including evaluations provided by the parent completed privately; standards of learning test scores; school enrollment history; attendance records; student work samples; teacher observational information; and information related to the student's response to interventions. Information reviewed by the committee is documented in writing on the *Local Screening Committee Report* (SS/SE-14) form. Options considered, and the reason(s) for proposal or rejection, and other factors relevant to the committee decision, are also documented on the *Local Screening Committee Report* (SS/SE-14) form.

Once the local screening committee has reviewed all available information and documented their considerations, proposals, and rejections, a determination regarding the need for special education evaluation is notated and a rationale for this determination provided. If the committee determines there is sufficient evidence to warrant an evaluation for special education, the committee must identify the evaluation components to be administered that will enable FCPS to gather relevant functional, developmental, or academic information about the student so the eligibility team will be able to determine if the student is a student with a disability in need of special education and related services. The evaluation process must be sufficiently comprehensive to enable FCPS to determine if the student is eligible, the student's special education and related services needs, as well as educational needs. Required assessments are indicated on the *Notice and Consent for Evaluation* (SS/SE-2) form. The Prior Notice of Evaluation Determination section on the *Local Screening Committee Report* (SS/SE-14) form should be reviewed with the parent and initials obtained, prior to requesting parent consent for the evaluation.

If the local screening committee determines there is not sufficient evidence to warrant an evaluation, the parents are provided *Notice Not To Evaluate* (SS/SE-13). The committee shall document what further actions are being pursued in response to the referral, with a plan noted for follow-up. The ***Prior Notice of Evaluation Determination*** section on the *Local Screening Committee Report* (SS/SE-14) form should be reviewed with the parent, initials obtained, and all questions answered regarding the decision to not evaluate.

While the *Local Screening Committee Report* (SS/SE-14) form contains all components of a properly comprised prior written notice, parents who request prior written notice regarding the evaluation determination shall be provided the *Prior Written Notice* (SS/SE-141) form within a reasonable period of time.

## **PARENTAL CONSENT**

Parental consent is not required before a school team reviews existing data as part of an evaluation or administering a test or other evaluation that is administered to all children, unless parental consent is required before administration to all children.

Parental consent must be obtained in writing, prior to FCPS staff members completing the initial evaluation. Parental consent for initial evaluation is not consent for the initial provision of special education and related services. School staff members should make reasonable efforts to obtain parent consent for the initial evaluation to determine whether the student is student with a disability. If the parent does not provide consent for the initial evaluation, or fails to respond to a request to provide consent, school staff members may, but are not required to, use dispute resolution options of administrative review, mediation or due process to pursue the evaluation.

If the parent of a child who is home-instructed or who is placed in a private school by the parents at the parents' expense, does not provide consent for initial evaluation, FCPS staff members may not use the dispute resolution process to pursue the evaluation.

## **INITIAL EVALUATION FOR SPECIAL EDUCATION**

The local screening committee shall review existing evaluation data on the student and input from the parents, to determine the evaluation components that are needed to determine:

- If the student is a student with a disability.
- Present educational needs of the student.
- Present level of academic achievement and related developmental needs and.
- Whether the student needs special education and related services.

### **Evaluation Procedures**

Evaluations must be conducted by qualified professionals and may include, as appropriate, formal and informal measures of the student's ability; academic achievement; personal adjustment; information from the parent; and/or conferencing with the student.

The professionals completing the assessments must ensure that:

- The evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student is suspected or has been classified.
- Each student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, motor abilities, and adaptive behavior. These may include, but are not limited to,



educational, medical, sociocultural, psychological, or developmental assessments.

- The hearing of each student suspected of having a disability shall be screened during the evaluation process prior to initial determination of eligibility for special education and related services;
- A complete audiological assessment, including tests that will assess inner and middle ear functioning, shall be performed on each student who is hearing impaired or deaf, or who fails two hearing screening tests.
- The administration of assessments and other evaluation materials is conducted by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the assessments.
- Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills. Reports must indicate if the assessment was administered in a language other than English or if an interpreter was used.
- A variety of assessment tools and strategies are used to gather relevant functional, developmental and academic information about the student, including information provided by the parents, and information related to enabling the student to be involved in and progress in the general curriculum or for a preschool student, to participate in appropriate activities, that may assist in determining whether the student is a child with a disability and the content of the student's IEP.
- That no single measure or assessment is used as the sole criterion for determining whether the student is a child with a disability and for determining an appropriate educational program for the student.
- Ensure that assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student.
- Ensure that assessments or evaluation materials that are used to assess the student:
  - Are selected and administered so as to be neither culturally nor racially discriminatory;
  - Are provided and administered in language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so;
  - Are used for the purposes for which the assessments or measures are valid and reliable;
  - Are administered by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the test;
  - Include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
  - Are selected and administered so as to best ensure that if an assessment is administered to a student with impaired sensory, motor, or communication skill, the assessment results accurately reflect the

student's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the student's impaired sensory, motor, or communication skills (except where those skills are the factors that the test purports to measure).

- Are technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the evaluation report.
- Any non-standardized test, administered by a qualified professional, may be used to assist in determining whether the student has a disability and in determining the contents of the student's IEP.
- If the evaluation requires more than one component, the components shall be completed by a multidisciplinary team, including at least one teacher or other specialist with knowledge in the area of suspected disability.
- For a student suspected of having a learning disability, the evaluation shall include an observation of academic performance in the general education classroom by at least one team member other than the student's general education teacher. In the case of a student of less than school age or out of school, a team member shall observe the student in an environment appropriate for a student of that age.
- The administration of assessments must be coordinated between school divisions if a student transfers from one division to another in the same school year, and completed as expeditiously as possible.
- The student will not be required to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving services.
- For a student suspected of having a specific learning disability, the multidisciplinary team shall include:
  - The student's general education teacher or, if the student does not have a general education teacher, a classroom teacher qualified to teach a student of that age, or if a child is below school age, a person qualified to teach that age; and
  - At least one person qualified to conduct individual diagnostic examinations of students, such as a specific learning disabilities teacher, school psychologist, speech and language clinician, or remedial reading teacher.

### **Interpretive Conference**

Following completion of individual assessments and prior to the eligibility meeting, the parent must be invited to a conference for the purpose of interpreting and discussing the assessment results. At this time, the parent should be informed of the remaining steps in the process of eligibility determination. If the referral source is someone other than the parent, this person should be notified of the evaluators' findings, if appropriate.

Evaluation reports must be provided to parents in writing. The reports must be made available to parents three business days prior to the meeting to determine eligibility. A written copy of the evaluation reports shall be provided to the parents, at no cost, prior to or at the meeting where the eligibility group reviews the evaluation reports.

### **Timeline for Completion**

The evaluation process for determining initial eligibility of special education must be completed within **65 business days** of the date that the referral was received by the school's designated staff member for receiving referrals. There are two exceptions to this timeline; if a student transfers from another school division during the evaluation process, or if the parent repeatedly fails or refuses to make the student available for evaluation.

Should a student transfer from an FCPS school during the evaluation process, the principal or principal's designee must ensure that the school division in which the student enrolls is promptly made aware of the evaluation process and receives all evaluation data in a timely manner. Conversely, should a student transfer into FCPS during the evaluation process, the principal or principal's designee must ensure that the evaluation is completed without delay. Any agreed upon extension should be made after consultation with the parents and should not unduly extend the timeline beyond the time needed to complete the evaluation process. As long as the school is making sufficient progress to ensure prompt completion of the evaluation and the parents and school agree to a specific time period when the evaluation will be complete and a specific date by which an eligibility determination will be made, the timeline should only be extended for a period reasonably necessary to complete the evaluation process and make an eligibility determination.

Should the parent repeatedly fail or refuse to make the student available for evaluation, the principal or designee should ensure that efforts to complete the evaluation process are documented. Also, should the parent refuse to give written consent for a requested evaluation, the principal must attempt to seek resolution. Those efforts should also be documented.

Additionally, if the eligibility committee agrees, in writing, that additional data which could not be obtained within the 65 business days is required to make an eligibility determination, the eligibility committee can extend the timeline, to include no more than 10 business days. The eligibility committee meets as required on or before the 65<sup>th</sup> business day from date of referral and reviews the completed evaluation components. If the committee determines that additional data is required, they must complete the *Eligibility Committee Additional Data Required (SS/SE-251)* form and document evaluations reviewed, document specific additional data required, document the date the committee will reconvene and obtain committee members' signatures in agreement to the decision.

## ELIGIBILITY DETERMINATION

The eligibility committee is composed of the parent, or student if 18 years of age or older, and a team of qualified professionals consistent with the make-up of the IEP team membership, one of whom shall have either assessed or observed the student. The eligibility committee will determine whether the student is a student with a disability and requires special education and related services.

The team of qualified professionals includes:

- Principal or designee
- School psychologist
- Staff members representing the disciplines providing assessments (at least one must have assessed or observed the student)
- General education teacher of the student
- Special education teacher.

On occasion, other FCPS staff members may participate in the eligibility determination. These staff members should be knowledgeable regarding evaluation and special education eligibility issues. The parent(s) may also invite individuals who have knowledge or special expertise regarding their child to participate in the eligibility meeting. The determination of the knowledge or special expertise is made by the party who invited the individual.

Parents must be notified of the eligibility committee meeting early enough to ensure they have an opportunity to participate. The parent must be provided with *Notice of Eligibility Meeting* (SS/SE-142). Every effort must be made to ensure that one or both parents are present at the meeting. If neither parent can attend, other methods to ensure parent participation should be used, including individual or conference telephone calls. A record must be made of each parent contact. These contacts may include detailed records of telephone calls made or attempted and the results of those calls; detailed records of visits made to the parent's home; or copies of correspondence sent to and received from the parent.

Students, age two, previously participating in early intervention services through Fairfax County/Falls Church Infant Toddler Connection, must meet the requirements for initial eligibility as a student with a disability as indicated in this document prior to receiving special education and related services.

### **Eligibility Meeting Procedures**

Upon completion of the administration of assessments and other evaluation materials, the eligibility committee determines whether the student is a student with a disability and in need of special education and related services, as well as the education needs of the student.

In interpreting evaluation data and making an eligibility determination, the committee shall:

- Draw upon information from a variety of sources, including aptitude and achievement tests, parental input and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior.
- Ensure that information obtained from all sources is documented and carefully considered.
- Ensure that the eligibility group considers data which demonstrates that prior to, or as part of the referral process, the student was provided appropriate high-quality, research-based instruction in general education settings, including that the instruction was delivered by qualified personnel. There shall be data-based documentation that repeated assessments of achievement at reasonable intervals, reflecting that formal assessment of student progress during instruction was provided to the student's parents.
- Ensure that the student was observed in the student's learning environment (including the general education classroom setting) to document the student's academic performance and behavior in the area(s) of difficulty. The eligibility committee can:
  - Use information from an observation of routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation.
  - Consider information from an observation completed by a member of the eligibility committee as part of the evaluation for special education eligibility.
  - In the case of a student of less than school age or out of school, consider information provided by an observation conducted by an eligibility committee member in an environment appropriate for a student of that age.
- Ensure that there is enough information to determine the student's present levels of academic achievement, and related developmental needs.
- Ensure that the determination that the student has a disability is not made due to:
  - Lack of appropriate instruction in reading, including phonemic awareness, phonics, vocabulary development, reading fluency, oral reading skills, and reading comprehension strategies.
  - Lack of appropriate instruction in math; or
  - Limited English proficiency.

In order to find a student eligible for special education services, the committee must determine that the student is a student with a disability who requires special education and related services. The eligibility determination is made by consensus of the eligibility committee. FCPS uses the criteria adopted by the Virginia Department of Education for the following areas of eligibility in determining whether the student has a disability.

- Autism
- Deaf-Blindness
- Deafness

- Developmental Delay<sup>2</sup>
- Emotional Disability
- Hearing Impairment
- Intellectual Disability
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impairment
- Specific Learning Disability
- Speech or Language Impairment
- Traumatic Brain Injury
- Visual Impairment

The *Special Education Eligibility* (SS/SE-10) form and the appropriate *Basis for Committee Decision* form(s) must be completed by the chairperson or designee during the eligibility meeting. Eligibility committee members indicate by signature their participation in the review and discussion. If consensus is not reached by all committee members, and the report does not reflect a particular member's conclusion, that FCPS committee member must write a separate statement presenting his or her conclusion. If the report does not reflect the parent's conclusion, the parent may write a separate statement presenting his or her conclusion.

The eligibility decision must be made after determining which needs of the student cannot be met in general education. Specific recommendations for placement, program development, or related services are the function of the IEP team and should not be discussed as part of the eligibility determination.

A copy of the eligibility determination paperwork must be provided to the parent at the conclusion of the meeting. This documentation shall include:

- Completed *Basis for Committee Decision* forms indicating whether criteria were met or not met for specific eligibility categories; relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning; any educationally relevant medical findings.
- Statement of eligibility indicating whether the student has a specific disability and that there is documented evidence that, by reason of the disability, the child requires special education and related services.
- Summary of evaluation information reviewed and considered in order to make the eligibility determination and a copy of reports completed by the evaluators.
- Completed *Parent Notice of Eligibility Determination* (SS/SE-107).

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<sup>2</sup> Fairfax County Public Schools recognizes the category of developmental delay for the identification of children with disabilities for special education services for children age two, by September 30, through six inclusive.

If the parent did not attend the meeting and disagrees with the decision, an offer must be made to reconvene the eligibility committee with the parent present to reconsider the eligibility determination. If the parent was not provided a copy of the assessment reports prior to or at the eligibility meeting, the reports must be sent to the parent with the notification of the eligibility determination no later than 10 days after the meeting.

## **Parental Consent**

Informed parental consent must be obtained for the initial eligibility determination. Prior to requesting parent consent, the Prior Notice of Eligibility Determination on page 2 of the *Special Education Eligibility* form (SS/SE-10) must be reviewed with the parent, and any documentation referenced reviewed, if requested, and any questions the parent(s) may have should be answered.

If a parent refuses to consent to an initial eligibility determination, school staff members should attempt to resolve parental withholding of consent through informal means or may proceed with an administrative review and/or mediation to effect the proposed action. Additionally, *Prior Written Notice* (SS/SE-141) must be provided to the parent if the parent is in disagreement with or refuses consent for the initial eligibility determination.

## **Individualized Education Program (IEP)**

Information from the initial eligibility meeting shall be forwarded to the IEP team, including the parent. Within 30 calendar days of the eligibility determination, an IEP must be developed for the student, with implementation to occur as soon as possible following parental consent to the IEP. The *Virginia Regulations* do not permit exceptions to this timeline. Decisions regarding the need for related services shall be made by the IEP team. If the parent is not available to attend an IEP meeting within the required timeline, school staff members must proceed with an IEP meeting and must develop and propose an IEP using FCPS' current operating procedures.

For students who are not currently enrolled in FCPS, if the student is found eligible for special education, school staff members should discuss service options available to the student. For Fairfax County residents, an IEP can be developed and a proposal made of services and placement required in order for the student to receive a free appropriate public education (FAPE) should the student enroll in FCPS. If the parents elect to maintain enrollment of their child in a private school within Fairfax County, an individual service plan (ISP) may be appropriate. The ISP option would be appropriate if the student required the related service of speech and language, occupational therapy, vision, and/or physical therapy on the proposed IEP.

Nonresident students who are placed by their parents in private schools within Fairfax County and whose parents do not intend to enroll them in a public school setting in their local jurisdiction, may be offered an ISP if appropriate. The ISP option would be appropriate if the student required the related service of speech/language, occupational therapy, vision, and/or physical therapy on the proposed IEP.

## **Ineligible Decision**

Parental consent is not required for an initial determination that the student is not eligible for special education services. If the parent disagrees with the ineligible decision, they have the right to appeal the decision by notifying the coordinator of Due Process and Eligibility, in writing, that an administrative review, mediation or due process hearing is being requested. When a student is found not eligible, information obtained from the evaluation that is relevant to instruction must be provided to the student's teacher(s). If the student is in a private school, parental consent to release this information must be obtained.

If a student is found not eligible for special education services, *Prior Written Notice* (SS/SE-141) must be provided to the parent.

## **REEVALUATION**

The purpose of a reevaluation is to determine whether the student continues to have a disability and continues to require special education services. A reevaluation must be conducted: at least once every three years; if the team determines that the student's educational or related services needs, including improved academic achievement and functional performance, warrants a reevaluation; or if the student's parent or teacher requests a reevaluation. A reevaluation must also be conducted prior to determining that the student is no longer a student with a disability who is in need of special education and related services. Reevaluations are limited to once a year, unless the parent and the school division agree otherwise.

If the parent requests a reevaluation and the school team refuses to conduct one because it has already completed one within the year, *Prior Written Notice* (SS/SE-141) must be provided to document this refusal.

## **IEP Reevaluation Committee Meeting**

The IEP reevaluation committee is comprised of the parent, or student if 18 years of age or older, and a team of professionals consistent with an IEP team, to include:

- At least one special education teacher or, where appropriate, at least one special education provider of the student;
- At least one general education teacher of the student, if the student is or is expected to, participate in the general education environment;
- A representative of the local education agency who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities; is knowledgeable about the general curriculum; and is knowledgeable about the availability of resources of the local education agency;
- Other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate. This may include a representative of a private school if the student is currently attending one.



If the reevaluation is being conducted as the student's triennial reevaluation, the process, including eligibility determination, must be initiated with sufficient time to complete the process prior to the third anniversary of the date eligibility was last determined. If the reevaluation is being conducted for purposes other than the student's triennial, the reevaluation process, including eligibility, must be completed within 65 business days of the date the request for reevaluation was received.

Parents must be notified of the IEP reevaluation committee meeting early enough to ensure they have an opportunity to participate. Every effort must be made to ensure that one or both parents are present at the meeting. If neither parent can attend, other methods to ensure parent participation should be used, including individual or conference telephone calls. A record must be kept of each parent contact. These contacts may include detailed records of telephone calls made or attempted and the results of those calls; detailed records of visits made to the parent's home; or copies of correspondence sent to and received from the parent.

The IEP reevaluation committee convenes to review existing evaluation data available for the student and the reasons for the reevaluation request. Existing evaluation data may include, but is not limited to, previous evaluation data, current teacher narrative(s), current service provider progress reports and/or observations (to include progress toward meeting IEP goals), current classroom based assessments and work samples, private evaluation reports provided by the parents, and any other relevant information. In addition, all information provided by the parent, orally or in writing, must be considered.

On the basis of the review and input from the student's parents, the student's IEP reevaluation committee determines what, if any, additional assessments are needed in order to determine.

- If the student continues to be a student with a disability.
- Present educational needs of the student.
- Present level of academic achievement and related developmental needs.
- Whether the student needs special education and related services, and.
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

If the IEP reevaluation committee determines that no additional data is required to determine eligibility then the review of existing data is considered the evaluation. Prior written notice must be provided to the parents of the determination that no additional data is required. When a decision is made that no additional data is required, the committee can proceed with making an eligibility determination as outlined below. The parent has the right to request assessments about their child's educational needs and/or to request assessments to determine whether their child continues to be a child with a disability and in need of special education and related services. However, FCPS is not required to evaluate a student solely because the student is graduating with a

standard or advanced diploma, even through this will be considered a change in placement. *Prior Written Notice* (SS/SE-141) shall be provided to parents informing them that upon graduation the student will no longer be eligible for special education and related services.

If additional evaluation data is required to determine continued eligibility, the IEP reevaluation committee determines what evaluation components are needed. The school psychologist should be included as a member of the IEP reevaluation committee when assessments are being considered to determine a change in or an additional area of disability and when assessments are being considered to determine whether the student continues to be a student with a disability and in need of special education and related services. However, should the parent request assessments during a reevaluation meeting in which the school psychologist is not present; the reevaluation committee does not need to reconvene. The reevaluation committee should consider the parent's request at the time it is made.

After the assessments are completed and prior to the eligibility meeting, the parent must be invited to a conference to discuss the results of the assessments. At this time, the parent should be informed of the remaining steps in the reevaluation process. Parents must be notified of the eligibility meeting early enough to ensure that they have an opportunity to participate. The parent must be provided *Notice of Eligibility Meeting* (SS/SE-142). If parents are unable to attend and request that the eligibility meeting be postponed, any postponement must not extend the meeting date beyond the 65 business day timeline or beyond the triennial due date, whichever comes first.

### **Reevaluation Eligibility Determination**

The eligibility committee is composed of the parent, or student if 18 years of age or older, and a team of qualified professionals consistent with the make-up of the IEP team membership, one of whom shall have either assessed or observed the student. The eligibility committee will determine whether the student is a child with a disability and requires special education and related services.

The team of qualified professionals includes:

- Principal or designee
- School psychologist
- Staff members representing the disciplines providing assessments (at least one must have assessed or observed the student)
- General education teacher of the student
- Special education teacher

On occasion, other FCPS staff members may participate in the eligibility determination. These staff members should be knowledgeable regarding evaluation and special education eligibility issues. The parent(s) may also invite individuals who have knowledge or special expertise regarding their child to participate in the eligibility meeting. The determination of the knowledge or special expertise is made by the party who invited the individual.

Parents must be notified of the reevaluation eligibility committee meeting early enough to ensure they have an opportunity to participate. The parent must be provided with *Notice of Eligibility Meeting (SS/SE-142)*. Every effort must be made to ensure that one or both parents are present at the meeting. If neither parent can attend, other methods to ensure parent participation should be used, including individual or conference telephone calls. Record must be made of each parent contact. These contacts may include detailed records of telephone calls made or attempted and the results of those calls; detailed records of visits made to the parent's home; or copies of correspondence sent to and received from the parent.

Continued eligibility for special education must be determined within 65 business days of the date the reevaluation request was received and no later than the triennial due date.

### **Reevaluation Eligibility Meeting Procedures**

Upon completion of the administration of requested assessments and other evaluation materials, the eligibility committee determines whether the student is a child with a disability and in need of special education and related services, and the education needs of the student.

In interpreting evaluation data and making an eligibility determination, the committee shall:

- Draw upon information from a variety of sources, including aptitude and achievement tests, parental input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior;
- Ensure that information obtained from all sources is documented and carefully considered;
- Ensure that the student was observed in the student's learning environment (including the general education classroom setting) to document the student's academic performance and behavior in the area(s) of difficulty. The eligibility committee can:
  - Use information from an observation in routine classroom instruction and monitoring of the student's performance that was done before the student was referred for an evaluation;
  - Consider information from an observation completed by a member of the eligibility committee as part of the evaluation for special education eligibility;
  - In the case of a student of less than school age or out of school, consider information provided by an observation conducted by an eligibility committee member in an environment appropriate for a student of that age.
- Ensure that there is enough information to determine the student's present levels of academic achievement, and related developmental needs.

In order to find a student continued eligible for special education services, the committee must determine that the student is a child with a disability who requires special education and related services. The eligibility determination is made by consensus of the eligibility committee. The reevaluation eligibility committee shall determine if the student continues to meet the criteria for the category of eligibility for which he or she was previously eligible, as well as meet the criteria for any additional categories of suspected disability.

The *Special Education Eligibility* (SS/SE-10) form and the appropriate *Basis for Committee Decision* form(s) must be completed by the case manager, eligibility chairperson or designee during the eligibility meeting. Eligibility committee members indicate by signature their participation in the review and discussion. If consensus is not reached by all committee members, and the report does not reflect a particular member's conclusion, that FCPS committee member must write a separate statement presenting his or her conclusion. If the report does not reflect the parent's conclusion, the parent may write a separate statement presenting his or her conclusion.

The eligibility decision must be made after determining which needs of the student cannot be met in general education. Specific recommendations for placement, program development, or related services are the function of the IEP team and should not be discussed as part of the eligibility determination.

A copy of the reevaluation eligibility determination paperwork must be provided to the parent at the conclusion of the meeting. This documentation shall include:

- A completed basis for committee decision forms indicating whether criteria were met or not met for specific eligibility categories; relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning; any educationally relevant medical findings.
- A statement of eligibility indicating whether the student has a specific disability and that there is documented evidence that, by reason of the disability, the student requires special education and related services.
- A summary of evaluation information reviewed and considered in order to make the eligibility determination and a copy of reports completed by the evaluators.
- A completed *Parent Notice of Eligibility Determination* (SS/SE-107).

If the parent did not attend the reevaluation eligibility meeting and disagrees with the decision, an offer must be made to reconvene the committee with the parent present to reconsider the eligibility determination. If the parent was not provided a copy of the assessment reports prior to or at the eligibility meeting, the reports must be sent to the parent with the notification of the eligibility determination.

## **Parental Consent**

Informed parental consent must be obtained for any change or addition to an eligibility determination. Prior to requesting parent consent, the Prior Notice of Eligibility Determination on page 2 of the *Special Education Eligibility* form (SS/SE-10) must be reviewed with the parent.

If a parent refuses to consent to a change or addition, in part or whole, to the eligibility determination, school staff members should attempt to resolve parental withholding of consent through informal means or may proceed with an administrative review and/or mediation to effect the proposed action. Additionally, *Prior Written Notice* (SS/SE-141) must be provided to the parent if the parent is in disagreement with or refuses consent for the change or addition, in part or whole, to the eligibility determination. Until parent consent is obtained, the student remains eligible under the previous category of eligibility, or those for which parental consent has been obtained.

## **Individualized Education Program (IEP)**

If the student continues to be eligible as a student with a disability and requires special education and related services, the student's (IEP) team may need to convene within 30 calendar days. The reevaluation eligibility committee shall determine if the IEP team shall convene within 30 calendar days if:

- There is a change in the student's eligibility and educational needs which requires a review of the current IEP;
- There is a change in the student's educational needs which requires a review of the current IEP;
- The parent(s) requests an IEP meeting.

## **Ineligible Decision**

If the student is found no longer eligible for special education, *Prior Written Notice* (SS/SE-141) must be provided to the parent.

Informed parental consent is required before complete termination of all special education and related services can occur. Prior to requesting parent consent, the Prior Notice of Eligibility Determination on page 2 of the *Special Education Eligibility* form (SS/SE-10) must be reviewed with the parent. Consent is obtained for the complete termination of services by the parent completing and signing the appropriate section of the *Special Education Eligibility* (SS/SE-107) form. If the parent gives consent for termination of services, a date is determined upon which services will be terminated.

If the parent refuses to give consent for termination of services, school staff members should attempt to resolve parental withholding of consent through informal means or may proceed with an administrative review, mediation, and/or due process hearing to effect the proposed action. The student remains eligible and in his or her current placement until the parent agrees to the termination of services.

## **SURROGATE PARENT**

A surrogate parent is appointed under certain circumstances to represent the student in all matters relating to identification, evaluation, or educational placement or the provision of a free appropriate public education. Reasonable efforts must be made to ensure the assignment of a surrogate parent not more than 30 days after the determination that a surrogate is needed.

Personnel in the Office of Special Education Procedural Support (OSEPS) Due Process and Eligibility section shall be responsible for identifying individuals who are willing and qualified to serve as surrogate parents. To be qualified as a surrogate parent, an individual must have no personal or professional interest that conflicts with the interest of the student, have knowledge and skills that will ensure adequate representation of the student, be of the age of majority, and not be an employee of the Virginia Department of Education, FCPS, or any other agency that is involved in the education or care of the student. If otherwise qualified, an individual will not be considered to be an "employee" solely because they are paid to serve as a surrogate parent.

When a school cannot identify or with reasonable efforts locate someone who qualifies as a "parent" in accordance with the Virginia Regulations, the school will contact the OSEPS Due Process and Eligibility section, who will confirm the need for a surrogate and appoint a surrogate within 30 calendar days for the student, if one is needed. Once appointed, notice will be provided, in writing, to the student, as appropriate to the disability, the appointed surrogate parent, and the person charged with the responsibility for the student, that the appointment has been made. The surrogate parent will be assigned to serve for the duration of the school year unless a shorter period of time is appropriate given the content of the child's IEP. At the end of each school year, following a review, a determination will be made regarding whether the appointment of a surrogate parent will be renewed or not. Appointments may also be extended as needed, if the student requires the services of a surrogate during the summer months.

If the student is an unaccompanied homeless youth, the appropriate staff member with an emergency shelter, transition shelter, independent living program, or street outreach program may be appointed as a temporary surrogate even though the staff member is an employee of an agency that is involved in the education or care of the student. The temporary surrogate must meet the other qualifications for a surrogate parent, and may serve only until a surrogate parent meeting all of the qualifications for a surrogate parent can be assigned.

While every effort will be made to secure individuals willing to serve as surrogates from within the FCPS jurisdiction, individuals from outside the jurisdiction may be secured if necessary to ensure that someone qualified is available to represent the needs of the student in meetings pertaining to special education eligibility and services. In addition, others may be eligible once a need is identified, such as a student's relative, depending on the student's needs, and the availability of qualified persons familiar with the student and who would otherwise qualify.

Termination of a surrogate parent will occur when:

- The child reaches the age of majority and rights are transferred to the child or to an educational representative who has been appointed in accordance with the transfer of rights procedures.
- When the child is no longer eligible for special education services and the surrogate parent has consented to the termination of services.
- When legal guardianship has transferred to a person who can serve as the parent in special education matters.
- When the parent whose whereabouts previously were unknown is now known and the parent is available; or
- When the appointed surrogate is no longer qualified.

If a surrogate wants to challenge the surrogate qualifications, or if the surrogate is terminated prior to the end of the appointment and wishes to appeal the decision, a request for review can be made by contacting the coordinator of Due Process and Eligibility.

### **AUDIO RECORDING**

FCPS permits the use of audio recording at any meeting involving the identification, evaluation, or educational placement or the provision of a free appropriate public education of a student suspected or identified as having a disability. Parents should inform school staff members prior to a meeting of their intent to record. School staff members must be prepared to record the meeting if a parent is recording. The audio recording becomes part of the student record upon completion of the meeting and should be stored in the student's file at the school of enrollment.

FCPS does not allow the use of video recording for all situations in which audio recordings are permitted.

### **RESPONSE TO INTERVENTION**

FCPS uses a variety of sources of evidence, including response to scientifically based interventions, to determine the need for a referral for a special education evaluation and as a part of the evaluation information to determine eligibility. FCPS, however, will not delay the evaluation of a student who is suspected of having a disability while these interventions are being implemented.

### **IEP TEAM MEMBER EXCUSALS**

FCPS permits required members of the IEP team to be excused from attending the IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent provides consent in writing to the excusal, and if prior to the meeting, the member

provides the parent and the IEP team written input into the development of the child's IEP.

### **IEP ADENDUM WITHOUT A MEETING**

After a child's annual IEP team meeting, the parent(s) and FCPS members of the IEP team may agree to develop a written amendment to a child's IEP, with or without convening an IEP meeting. When an addendum without a meeting is proposed, the student's case manager must obtain agreement from the other members of the IEP team and contact the parent to obtain verbal consent prior to changes being sent home for written consent. The *IEP Addendum Without a Meeting* form (IEP 211) must be provided following contact with the parent to document the date of verbal agreement and to provide an offer to convene an IEP meeting if the parent is no longer in agreement. This process is not a substitute for the required annual IEP meeting.

### **DISPROPORTIONALITY**

In the event that FCPS is found to have significant disproportionality based on race and ethnicity in the identification and placement of students with disabilities, it will review and revise its policies, procedures, and practices to ensure compliance with disproportionality requirements. Such changes will be reported publicly. FCPS will respond to the Virginia Department of Education's reporting requirements for local education agencies on local data relative to disproportionality, and as necessary, corrective measures.

### **LONG TERM REMOVALS**

In the event that FCPS is found to have discrepancies in the rate of long-term suspensions and expulsions of students with disabilities, including by race or ethnicity, as compared to the rates for children without disabilities, FCPS will review its policies, procedures, and practices related to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that students with disabilities are not inappropriately long-term suspended or expelled. FCPS will respond to the Virginia Department of Education's reporting requirements for local education agencies on local data relative to long-term suspensions and expulsion of students with disabilities, and as necessary, corrective measures.

### **STUDENT RECORDS APPEAL PROCESS**

Procedures for requesting a hearing to appeal a decision not to amend a student scholastic record are outlined in the FCPS Student Scholastic Records Manual.



## **504 GRIEVANCE PROCEDURES**

FCPS has developed procedures for requesting and conducting impartial hearings involving Section 504 disputes. These procedures are outlined in the Section 504 Procedures Manual.