



# PARENT GUIDE TO THE SPECIAL EDUCATION PROCESS

March 2023

## Parent Guide to the Special Education Process

---

Do you have questions about your child's development and unique needs? Special education services for students ages 3-21 may be available when a student is struggling with learning or development because of a disability.

If a parent sees a child struggling, they are encouraged to work with school personnel to determine ways to help the child.



### Step 1: Referral

A parent, teacher, doctor, or another provider can make a referral to a local school district for a special education evaluation if they have concerns that a child may have difficulties with learning or development. A referral should be made in writing.

The school must review existing data to determine if there is evidence that a child has one or more of the conditions covered under the Individuals with Disabilities Education Act (IDEA) 2004 (developmental delays, autism spectrum disorder, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, visual impairment).



### Step 2: Parental Prior Written Notice (PPWN)

Once a school district receives a referral, they must provide **parental prior written notice (PPWN)** within a reasonable amount of time and in the parent's native language stating whether the evaluation will or will not be conducted and why, based on a review of existing data.

#### Evaluation will not be conducted

The school district may decide not to conduct an evaluation and must inform the parent why through a PPWN, including the information used to make the determination.

#### Evaluation will be conducted

PPWN consent for evaluation is required. If the school district decides to conduct an evaluation, they must inform the parent in what areas the student will be evaluated, including assessing the child's educational or functional skills. The PPWN Consent for Evaluation will contain an area for the parent to sign consenting for the district to complete only the evaluations listed. The signed PPWN, including your input, must be returned to the school district in order for the district to evaluate.

If the parent disagrees with the district, they may proceed with the parental rights for due process as outlined in the South Dakota Parental Rights and Procedural Safeguards Handbook. Parents may request this document from the local school district or access it on the South Dakota Department of Education's Parental Rights Procedural Safeguards Notice webpage ([doe.sd.gov/sped/parentalrights.aspx](http://doe.sd.gov/sped/parentalrights.aspx)). Find dispute resolution options provided by the department's Office of Special Education Programs starting on page 23.



### Step 3: Evaluation

Once the school district receives parent consent, they have 25 school days to complete the evaluations listed (unless the parent(s) agreed and signed to extend the timeline due to extenuating circumstances).

- Evaluations are completed at the school district, unless otherwise agreed to by parents and the school district
- In some cases, outside evaluators are needed to conduct the evaluations
- Evaluators are required to be trained and experienced in the area of the evaluation
- If a child is determined eligible for special education services, the evaluation process will occur every three years to determine continued eligibility
- Evaluations brought to the district by the parent, should be considered



### Step 4: Meeting Notice

Upon completion of the evaluation, the school district will work with the parent(s) to determine a date and time that works for them to meet with the eligibility team or Individual Education Plan (IEP) team. The district will provide parents with a meeting notice with the agreed date, time, and location. This eligibility meeting may be held virtually, by phone, or in-person.

The IEP team consists of:

- Parent(s) or guardian(s)
- One general education teacher
- One special education teacher
- School district representative
- Experts who can interpret results, if applicable
- Student, if applicable
- Any individual the parent or guardian chooses to invite
- Transition Services Representative, if applicable



### Step 5: Eligibility Meeting

The eligibility meeting occurs within 30 days after the evaluation timeline. Evaluation results are shared and discussed with the individual education plan (IEP) team, including parents, to determine if the student is eligible for special education services under the IDEA 2004. The IEP team review results for qualifying scores and determines educational need.

If the IEP team determines the student is not eligible for special education services, and the parent disagrees, the parent has due process rights as outlined in the South Dakota Parental Rights and Procedural Safeguards Handbook.

If the student is eligible, the IEP team will work collaboratively to develop an IEP for the student. A student is eligible when they are determined to be a child with one or more disabilities covered under IDEA 2004 and their learning is impacted by the disability(ies).



## Step 6: Developing and updating an IEP

An IEP lays out a plan to support the eligible student through special education instruction, supports, and services in order to make educational progress. It is a legal document that a district must follow as written. A student's IEP must be updated at least annually or as the student's needs change. The district or parent may request an IEP meeting at any time.

An IEP contains the following sections (find details about each under the "What's in an IEP?" heading later in this document):

- Present levels of academic achievement and functional performance
- Consideration of special factors
- Transition goals and services, if applicable
- Education goals and objectives/benchmarks
- Accommodations, supports, and modifications
- State/district-wide assessment accommodations
- Special education and related services
- Least restrictive environment (LRE)
- Extended school year (ESY)
- Consent for initial provisions of special education services
- Amendment (may occur any time changes are needed)

### How do parents participate in the IEP process?

Parents are equal members of the student's IEP team. Parents are the expert about the child, and their input helps the team determine educational needs. As a parent, you have the right to:

- Participate in all IEP meetings
- Share information and assist the IEP team in making educational decisions
- Disagree and exercise your parental rights
- Call an IEP meeting any time changes are needed

Parents must receive a copy of the IEP annually and anytime changes are made.

### How is PPWN used once an IEP is developed?

A PPWN is provided to parents any time there is a change (addition, removal, or denial of a change) to the student's IEP or when a parent makes a request. PPWN explains why the district is proposing a change to the IEP or refusing a parent request to change the IEP and includes the following:

- An explanation of why the school wants to make a change or refuses to make a change
- A description of other options that were considered and why they were rejected
- A description of the test or record used to help make decisions
  - Description of other factors that are relevant to the schools proposal or refusal
- Parental Rights Procedural Safeguards and how to obtain a copy
- Who to contact for help in understanding parent rights

**How long after an IEP meeting should I receive PPWN?**

PPWN should be provided within a reasonable time after the IEP meeting. Parents have five calendar days after receiving to consider the proposal before the IEP/amendment can be implemented.

**What is a five-day notice (waiver)?**

Districts must, after parental receipt of PPWN, provide parents five calendar days to consider the proposed changes before implementing them. During the five days, parents should notify the district if they disagree with proposed changes and request an IEP meeting or file for due process.

Parents may waive the five days if they would like the services to begin prior to the five days. This waiver should be used as an exception when extenuating circumstances arise.

**What’s in an IEP?**

IEP SECTION	CONTENT REQUIREMENT
<p><b>Present Levels of Academic Achievement and Functional Performance</b></p>	<ul style="list-style-type: none"> <li>• Student’s current academic skills</li> <li>• Student strengths and needs                             <ul style="list-style-type: none"> <li>◦ Taken from evaluation data and used to develop goals</li> <li>◦ Includes input from the parent(s) on the student skills and academic performance</li> <li>◦ Must describe areas related to disability and other needs</li> </ul> </li> <li>• Statement of how the student’s disability prevents the student from participating in the general curriculum without special education and related services</li> </ul>
<p><b>Consideration of Special Factors</b></p>	<p>Addresses any of the student’s language barriers, communication, behavior, assistive technology, physical education, or hearing needs</p>
<p><b>Transition Goals and Services (if applicable)</b></p>	<ul style="list-style-type: none"> <li>• Transition goals are required on or before a student’s 16th birthday</li> <li>• Transition goals (postsecondary) are based on transition assessment data to determine what employment and/or educational training the student is interested in and addresses independent living skills, if applicable</li> <li>• The district must outline courses for the student’s remaining school years to show how the student will meet measurable postsecondary goals</li> <li>• At least one year before a student turns 18, the district must share information with the student about their educational rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student upon reaching age 18</li> <li>• The team must discuss if the student is eligible to continue to receive services until aging out of special education services at the end of the fiscal year they turn 21 or if they are on track to graduate with a regular high school diploma. If the student will age out of special education without a regular diploma, discussion should include why the student will not graduate with a regular diploma and impacts this may have as well as any alternative options.</li> </ul>

## What's in an IEP? (continued)

IEP SECTION	CONTENT REQUIREMENT
<b>Education Goals and Objectives/ Benchmarks</b>	<ul style="list-style-type: none"> <li>• Goals must be measurable to meet the needs of the student as identified in the evaluation and PLAAFP, enable the student to make progress in the general education curriculum, and meet the student's other educational needs that result from the disability</li> <li>• Goals must include how the district tracks progress, if progress is being made, and how progress will be reported to parents</li> <li>• Benchmarks/objectives are required IF the student takes the alternate assessment, which is for students with a significant cognitive disability</li> <li>• Goals/objectives must include how the student will perform (condition), what the student will perform (performance), and how the skill will be measured (criteria).</li> </ul>
<b>Accommodations, Supports, and Modifications</b>	<ul style="list-style-type: none"> <li>• Accommodations support how the student learns but do not change what the student is required to learn</li> <li>• Example: A student may need additional time to read a word problem, but they are required to read the same word problem as other students</li> <li>• Modifications change what the student is required to learn               <ul style="list-style-type: none"> <li>◦ Example: A student may need a lower-level math problem than his or her peers</li> <li>◦ NOTE: Modifications change/reduce learning expectations and may affect whether a student can graduate with a regular diploma</li> </ul> </li> <li>• Supports: Program supports for students and school personnel necessary for the student to advance appropriately toward the annual goals, to progress in the general curriculum, and to be educated and participate with other children both with and without disabilities</li> </ul>
<b>State/District-wide Assessment Accommodations</b>	<ul style="list-style-type: none"> <li>• IEP teams determine whether the student is able to participate in the state and district-wide assessments with or without accommodations</li> <li>• If a student has accommodations for daily work, generally those should apply to state and district-wide assessments. However, not all accommodations are allowed on state/district-wide tests depending on what the student is expected to know or demonstrate.</li> <li>• If a student has a significant cognitive disability, they may be eligible to take the alternate assessment</li> <li>• Not all grade levels require state/district-wide assessments, so this may not be applicable for every IEP. It should be documented regardless.</li> </ul>

IEP SECTION	CONTENT REQUIREMENT
<b>Special Education and Related Services</b>	<ul style="list-style-type: none"> <li>• IEP teams determine specially-designed instruction the student needs to progress in the general curriculum, based on student needs as identified in the evaluation, goals, and special factors</li> <li>• Services provided to the student should connect to his or her goals</li> <li>• Services may be provided in a variety of settings based on student needs</li> <li>• Services must include how often, where, and how long they will be provided</li> </ul>
<b>Least Restrictive Environment</b>	<ul style="list-style-type: none"> <li>• IEP teams must ensure students receive their education, to the maximum extent possible, with non-disabled peers in the general education classroom</li> <li>• Consider where the student will be able to learn new skills or practice skills</li> <li>• Determine whether or not the student will be able to participate in extracurricular and non-academic activities</li> </ul>
<b>Extended School Year</b>	<ul style="list-style-type: none"> <li>• Extended school year (ESY) is specially designed instruction or related services that are part of the student's IEP. ESY is delivered during extended school breaks if there is likelihood of significant regression, need to maintain critical life skills, or support emerging skills made during the school year.</li> <li>• Not all students are eligible for ESY services</li> <li>• ESY is determined by the IEP team annually using data to support whether the student needs it due to likelihood of significant regression, need to maintain critical life skills, or support emerging skills</li> </ul>
<b>Amendment</b>	<p>An amendment is a change to one or more components of a student's IEP. For example, if a student is able to participate in the classroom without one of the accommodations, the team may amend the IEP to change or remove that accommodation. An amendment may occur at any time the parent or team feels a change is needed. Changes may be made with or without a formal IEP team meeting, if all parties agree. Requires a PPWN explaining the changes.</p>

## What if I disagree with the IEP team?

If a parent does not agree with an IEP team decision or believes the public school district or agency has not followed the IDEA, they have rights as outlined in the South Dakota Parental Rights and Procedural Safeguards Handbook, which can be requested from the local school district or accessed on the South Dakota Department of Education's Parental Rights Procedural Safeguards Notice webpage ([doe.sd.gov/sped/parentalrights.aspx](http://doe.sd.gov/sped/parentalrights.aspx)). Find dispute resolution options provided by the department's Office of Special Education Programs starting on page 23.

## South Dakota Department of Education

### Dispute Resolution Options

For more information visit [doe.sd.gov/sped/complaints.aspx](http://doe.sd.gov/sped/complaints.aspx)

#### IEP FACILITATION

Available to parents and public school districts

Both parties must agree to participate

A neutral facilitator assists parties with effectively communicating. They are not decision makers

Goal is to develop an IEP that is agreed upon by the IEP team and benefits the student

#### MEDIATION

Available to parents and public school districts

Both parties must agree to participate

A neutral mediator assists parties with communication so everyone has an opportunity to express concerns and offer solutions. They are not decision makers.

Goal is to develop a mutually agreed upon plan that meets the educational needs of the student

#### STATE COMPLAINT

Any person or organization files when they allege the public school district is not following the requirements of idea

The state educational agency (SEA) investigates the alleged violations and issue a final decision

Final decision is issued within 60 days of receipt of request

#### DUE PROCESS HEARING

Parents or public agency files when there is a disagreement about the identification, evaluation, or educational placement of a student with disabilities

The ESA assigns a neutral hearing officer to hear the case and make final decision

Final decision is issued 45 days after hearing date

An expedited hearing is available when a parent disagrees with a public school districts discipline decision



## Have questions or need help understanding parental rights or the special education process?

---

### Local School District Contact

*“Add your school contact person here”*

#### **SD Department of Education**

Special Education Programs  
800 Governors Drive  
Pierre, SD 57501-2235  
Phone: 605-773-3678  
Fax: 605-773-3782  
<https://doe.sd.gov/sped/>

#### **SD Parent Connection**

3701 W. 49th St., Suite 102  
Sioux Falls, SD 57106  
1-800-640-4553  
[www.sdparent.org](http://www.sdparent.org)

#### **Disability Rights of SD**

2520 E. Franklin St., Suite 2  
Pierre, SD 57501  
1-800-658-4782 (voice/TTY) or  
605-224-8294  
<https://drsdlaw.org/>



**south dakota**  
DEPARTMENT OF EDUCATION  
Learning. Leadership. Service.

**[doe.sd.gov](http://doe.sd.gov)**