



**JEFFERSON COUNTY EDUCATIONAL SERVICE  
CENTER  
(JCESC)**

**SPECIAL EDUCATION POLICIES AND PROCEDURES**

By adopting these Policies and Procedures, the JCESC is adopting written policies and procedures regarding the manner in which the JCESC fulfills its obligations under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the *Ohio Operating Standards for Ohio Educational Agencies Serving Children with Disabilities* (hereafter referred to as the “Operating Standards”). The Operating Standards require that the JCESC adopt written policies and procedures in a number of different areas, and the JCESC has chosen to adopt the model policies and procedures promulgated by the Ohio Department of Education’s Office for Exceptional Children (ODE-OEC) in order to satisfy these requirements of the Operating Standards.

This document, while comprehensive, does not include every requirement set forth in the IDEA, the regulations implementing IDEA, the Operating Standards, the Ohio Revised Code (ORC) and/or the Ohio Administrative Code (OAC). The JCESC recognizes its obligation to follow these laws, regardless of whether their provisions are restated in the Model Policies and Procedures.

**Adopted on: August 10, 2017**

**By: JCESC Governing Board**

## **I. CONFIDENTIALITY**

The JCESC safeguards the confidentiality of personally identifiable information at use, collection, storage, retention, disclosure and destruction stages. In the JCESC, JCESC is responsible for maintaining the confidentiality of personally identifiable information. The JCESC ensures that all persons collecting or using personally identifiable information receive training and instruction regarding the JCESC's policies regarding that information. The JCESC maintains for public inspection a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. The JCESC gives notice to all parents of students receiving special education and related services that is adequate to fully inform parents about confidentiality requirements, in accordance with 3301-51-04(C) of the Operating Standards. The JCESC also ensures that its contractors adhere to applicable confidentiality requirements.

### **A. Access Rights**

The JCESC permits parents (or a representative of a parent) to inspect and review any education records relating to their children that are collected, maintained, or used by the JCESC. If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information. The JCESC does not charge a fee to search for or retrieve information. The JCESC may charge a fee for copies of records, but does not charge a fee for copies of records that will effectively prevent the parents from exercising their right to inspect and review records.

The JCESC complies with a request to access records without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to 3301-51-05 of the Operating Standards, and any resolution session pursuant to 3301-51-05 of the Operating Standards, and in no case more than 45 days after the request has been made.

The JCESC responds to reasonable requests for explanations and interpretations of the records, provides copies if failure to provide copies would effectively prevent the parent from exercising the right to inspect and review the records and permits a representative of a parent to inspect and review records.

The JCESC presumes that a parent has the authority to inspect and review records relative to that parent's child unless the JCESC has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation and divorce.

Upon request, the JCESC provides parents a list of the types and locations of education records collected, maintained or used by the JCESC.

The JCESC keeps a record of parties obtaining access to education records collected, maintained or used under Part B of the IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given and the purpose for which the party is authorized to use the records.

## **B. Amendment of Records/Hearing Process**

If a parent requests the JCESC to amend the information in the education records collected, maintained or used in the provision of special education or related services, the JCESC decides whether to amend the information in accordance with the request within a reasonable period of time. If the JCESC decides to refuse to amend the information in accordance with the request, it informs the parent of the refusal and advises the parent of the right to a hearing as set forth below and in 3301-51-04 of the Operating Standards.

### **(1) HEARING PROCEDURE**

If the parent requests a hearing to challenge information in education records, the hearing is conducted in accordance with the procedures in 34 Code of Federal Regulations (C.F.R.) 99.22 (July 1, 2005) and within a reasonable period of time after the JCESC receives the request. The hearing is conducted in accordance with the following procedures:

- (a) The parents shall be given notice of the date, time and place reasonably in advance of the hearing;
- (b) The records hearing shall be conducted by any individual, including an official of the JCESC, who does not have a direct interest in the outcome of the hearing;
- (c) The parents shall be afforded a full and fair opportunity to present evidence relevant to the child's education records and the information the parent believes is inaccurate or misleading or violates the privacy or other rights of the child;
- (d) The parents may, at their own expense, be assisted or represented by one or more individuals of their choice, including an attorney;
- (e) The JCESC makes its decision in writing within a reasonable period of time after the hearing; and
- (f) The decision is based solely upon the evidence presented at the hearing and includes a summary of the evidence and the reasons for the decision.

### **(2) RESULTS OF HEARING**

If the JCESC, as a result of the hearing, decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it amends the information accordingly and informs the parent in writing.

If the JCESC, as a result of the hearing, decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the child's records a statement commenting on the information or setting forth any reasons the parents disagree with the decision of the JCESC.

Any explanation placed in the records of a child are:

- (a) Maintained by the JCESC as part of the records of the child as long as the record or contested portion is maintained by the JCESC; and

b) Disclosed any time the records of the child or the contested portion is disclosed by the JCESC to any party.

### **C. Parental Consent Prior to Disclosure of Records**

The JCESC obtains parental consent before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance as defined by 3301-51-04(B)(3) of the Operating Standards, unless the information is contained in education records and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act of 1974, August 1974, 20 U.S.C. 1232g (FERPA).

The parent's consent must be in writing, signed and dated and must:

- (1) Specify the records to be disclosed;
- (2) State the purpose of the disclosure; and
- (3) Identify the party or class of parties to whom the disclosure may be made.

The JCESC obtains parental consent, or the consent of an eligible child who has reached the age of majority under Ohio law, before personally identifiable information is released:

- (1) To officials of participating agencies providing or paying for transition services in accordance with 3301-51-07 of the Operating Standards;
- (2) To officials in another JCESC or school in connection with the child's enrollment in a nonpublic school; and/or
- (3) For purposes of billing insurance and/or Medicaid.

### **D. Transfer of Rights At Age of Majority**

The JCESC affords rights of privacy to children similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

The rights of parents regarding education records under FERPA transfer to the child at age 18.

If the rights accorded to parents under Part B of the IDEA are transferred to a child who reaches the age of majority (which is 18 in Ohio), the rights regarding education records also transfer to the child. See Chapter IV, Procedural Safeguards, Section G, regarding the transfer of rights under IDEA at the age of majority.

Once a child reaches the age of 17, the IEP must include a statement that the child has been informed regarding this transfer of rights.

### **E. Disciplinary Information and Reports to Law Enforcement**

The JCESC includes in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmits the statement to the same extent that disciplinary information is included in, and transmitted with, the records of nondisabled children.

When a child transfers from the JCESC, the transmission of any of the child's records includes both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

A statement of disciplinary action shall:

(1) Specify the circumstances that resulted in the disciplinary action and provide a description of the disciplinary action taken if the disciplinary action was taken because the child:

a) Carried a weapon to or possessed a weapon at school, on school premises or to or at a school function;

(b) Knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or

(c) Inflicted serious bodily injury upon another person while at school, on school premises or at a school function; and

(2) Include any information that is relevant to the safety of the child and other individuals involved with the child.

A statement of disciplinary action may include a description of any other behavior engaged in by the child that required disciplinary action, and a description of the disciplinary action taken.

If the JCESC reports a crime to the appropriate law enforcement officials, the JCESC transmits copies of the special education and disciplinary records of the child to those officials only to the extent that the transmission is permitted by FERPA and any other applicable laws.

## **F. Destruction of Records**

The JCESC informs parents when personally identifiable information is no longer needed to provide educational services to the child. If the parents request, the information is then destroyed. However, a permanent record of a student's name, address, telephone number, grades, attendance record, classes attended, grade level completed and year completed is maintained without time limitation.

## **II. CHILD FIND**

In accordance with federal law, the JCESC assumes responsibility for the location, identification and evaluation of all children birth through age 21 who reside within the JCESC service delivery area and who require special education and related services.

This includes students who are:

(1) Advancing from grade to grade;

- (2) Enrolled by their parents in private elementary or private secondary schools, including religious schools, located in our JCESC service delivery area (regardless of the severity of their disability);
- (3) Wards of the state and children who are highly mobile, such as migrant and homeless children; and
- (4) Home-schooled.

### **A. Responsibility for Determining Eligibility**

In the JCESC, the Evaluation Team ensures that the student meets the eligibility requirements of IDEA and state regulations.

In all cases, the Evaluation Team will not determine that a student has a disability if the suspected disability is because of a lack of instruction in reading or math. If the student is not proficient in English, the JCESC will not identify the student as disabled if the limited English proficiency (LEP) is the cause of the suspected disability.

### **B. Child Identification Process**

#### **(1) GENERAL**

The JCESC has a child identification process that includes the location, identification and evaluation of a child suspected of having a disability. The JCESC Director of Special Education coordinates the child identification process. The department and its staff use a variety of community resources and systematic activities in order to identify children requiring special services. JCESC staff members consult with appropriate representatives of private school students attending private schools located in the JCESC service delivery area in carrying out this process. The JCESC ensures that this process for students attending private or religious schools located in the JCESC service delivery area is comparable to activities undertaken for students with disabilities in the public schools.

#### **(2) IDENTIFICATION OF CHILDREN BETWEEN THE AGES OF BIRTH TO AGE 3.**

When the JCESC becomes aware of a child between the ages of birth to 3 who has or may have a disability, it either:

- (a) Makes a child referral directly to the county family and children first council responsible for implementing the “Help Me Grow” (HMG) early intervention services under Part C of the IDEA; and/or
- (b) Provides the parents with the information so that they can make the referral themselves.

Parents may opt out of and/or opt not to be referred for Part C services. They may request an evaluation from the JCESC to determine if their child has a disability that may require special education. These parents are entitled to an evaluation from the JCESC, even if the child is

between the ages of birth to 3. The JCESC is responsible for providing an evaluation but is not responsible for the provision of FAPE for an eligible child until the child is age 3.

### **(3) TRANSITION TO SPECIAL EDUCATION FROM HELP ME GROW (HMG).**

The JCESC and the county family and children first council responsible for HMG have a current interagency agreement that includes processes for the referral of children from HMG to the JCESC. The JCESC has an assigned transition contact, the JCESC Director of Special Education, who is the primary person responsible for contact with HMG regarding children transitioning from that program.

(a) If invited by a representative of HMG (and with parent permission), a JCESC representative attends a transition conference to discuss transition from early intervention services to preschool for a child suspected of having a disability.

(b) If the parents request, the JCESC invites the Part C service coordinator to the initial IEP meeting.

If there is a suspected disability and the child is eligible for special education and related services as a preschool child, the JCESC works to ensure that an IEP is in place and implemented by the child's third birthday. In the case of children who are 45 days or less from their 3rd birthdays and who are suspected of having disabilities, an evaluation is completed within 60 days of parental consent, but an IEP is not required by their third birthdays.

As part of the IEP process, the IEP team determines if extended school year services are required for the preschool child.

### **(4) COORDINATION WITH OTHER AGENCIES.**

The JCESC has interagency agreements with Head Start programs within the school JCESC's service delivery area that provide for:

(a) Service coordination for preschool children with disabilities, 3 through 5 years of age, in a manner consistent with the state interagency agreement for service coordination with Head Start; and

(b) Transition of children eligible for special education and related services as a preschool child at age 3.

The JCESC also has interagency agreements with the relevant county board(s) of MR/DD for identification, service delivery and financial responsibilities to adequately serve preschool children with disabilities 3 through 5 years of age.

### **C. Data Collection**

The JCESC maintains an education management information system and submits data to ODE pursuant to rule 3301-14-01 of the Administrative Code. The JCESC's collection of data includes information needed to determine if significant disproportionality based on race and

ethnicity is occurring in the JCESC with respect to the identification of children as children with disabilities, the placement of children in educational settings and the incidence, duration and type of disciplinary actions.

### **III. Procedural Safeguards**

#### **A. Prior Written Notice**

The JCESC provides prior written notice as required by IDEA and Operating Standards. See Appendix A which summarizes the situations in which prior written notice is required. The JCESC uses the form required by ODE-OEC Prior Written Notice PR-01.

##### **(1) CONTENT OF PRIOR WRITTEN NOTICE**

The prior written notice, in accordance with the IDEA regulations and the Operating Standards, includes the following information to ensure that parents are fully informed of the action being proposed or refused:

- (a) A description of the action proposed or refused by the JCESC;
- (b) An explanation of why the JCESC proposes or refuses to take this action;
- (c) A description of other options that the IEP team considered and the reasons why those options were rejected;
- (d) A description of each evaluation procedure, assessment, record or report that the JCESC used as a basis for the proposed or refused action;
- (e) A description of other factors that are relevant to the JCESC's proposal or refusal;
- (f) A statement that the parents of a child with a disability have procedural safeguards and, if the notice is not an initial referral for evaluation, the means by which a copy of the description of procedural safeguards can be obtained; and
- (g) Sources for parents to contact to obtain assistance in understanding the provisions of Ohio's rule regarding procedural safeguards.

##### **(2) COMMUNICATION OF THE PRIOR WRITTEN NOTICE**

The JCESC provides the notice in the native language of the parents or other mode of communication used by the parents unless it is clearly not feasible to do so.

If the native language or other mode of communication is not a written language, the JCESC takes steps to have the notice translated orally or by other means to the parent in the parent's native language or other mode of communication. The JCESC takes steps to ensure that such parents understand the content of the notice and maintains written evidence that both requirements set forth in this paragraph, if applicable, have been met.

The JCESC may provide the prior written notice, procedural safeguards notice and the notification of a due process complaint by e-mail if the parents choose to receive the notices electronically.



## **B. PROCEDURAL SAFEGUARDS NOTICE**

It shall be the policy of this educational service center that it will cooperate with the school district of residence to ensure that the child with a disability and his/her parent shall be provided with safeguards, as required by law, throughout the identification, evaluation, and placement process, and the provision of a free appropriate public education to the child.

### **APPENDIX A When to Provide**

#### **Prior Written Notice, Informed Consent and Procedural Safeguards Notice**

***(A Guide to Parent Rights in Special Education)***

| Steps in the Special Education Process  | Action Required  |   |                               |
|---|--|---|-------------------------------|
|   | Notification or Informed Consent   | Prior Written Notice to Parents PR-01   | A Gu<br>Pare<br>in Sp<br>Educ |
| 1. Procedural safeguards must be provided to the parents once a year  |  |   |                               |
| 2. Procedural safeguards must be provided upon request of the parents                                       |  |   |                               |
| 3. Initial referral for a suspected disability  |  | X   |                               |
| 4. Initial evaluation   | Informed consent (Parent Consent for Evaluation PR-04 form)  | X   |                               |
| 5. Eligibility determination  |  | X   |                               |
| 6. IEP meeting  | Notification (Parent Invitation to Meeting PR-02 form)   | Provide after an IEP, if parents do not agree or do not attend the meeting                                    |                               |
| 7. Reevaluation with assessments conducted  | Informed consent (Parent Consent for Evaluation PR-04 form)  | Provide before, and after if parents do not agree or disability category changes                              |                               |
| 8. Reevaluation without further assessments conducted   | Notification   | May use this form to notify before, and provide after, if parents do not agree or disability category changes |                               |
| 9. No reevaluation conducted  |  | X   |                               |
| 10. Transfers from out of state and out of JCESC  | Informed consent (Parent Consent for Evaluation PR-04 form)<br>(If an evaluation is to be conducted) | Provide only after an IEP, if parents do not agree  | If n<br>fron<br>s             |
| 11. Change of placement   | Informed consent (IEP PR-07 form)  | Provide only after an IEP, if parents do not agree  |                               |
| 12. Change in the type and amount of services   |  | Provide only after an IEP, if parents do not agree  |                               |
| 13. Exit from special education   | Notification (Summary of performance if graduating or aging out of special education)                | X   |                               |
| 14. JCESC refuses services requested by parents   |  | X   |                               |
| 15. JCESC proposes/refuses to change disability category  |  | X   |                               |
| 16. Releasing personally identifiable information   | Informed consent (written consent)   |   |                               |
| 17. Destruction of personally identifiable information  | Notification prior to destruction  |   |                               |
| 18. Transfer of parental rights   | Statement included in IEP PR-07 form   |   |                               |
| 19. Upon receipt of the first due process complaint or upon receipt of first state complaint in school year |  |   |                               |
| 20. Disciplinary change in placement  |  | X   |                               |
| 21. Revocation of consent   |  | X   |                               |

## **Prior Written Notice, Informed Consent and Procedural Safeguards Notice (*A Guide to Parent Rights in Special Education*)**

### **1. Procedural safeguards must be provided to the parents once a year.**

The JCESC must give a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)** to the parents at least once a year, except as noted below:

- Upon initial referral or the parents request for evaluation;
- Upon request by the parents;
- Upon receipt of the first due process complaint or state complaint in a school year; and
- Upon a change in placement for disciplinary action.

### **2. Procedural safeguards must be provided upon request of the parents.**

The JCESC must give a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)** to the parents whenever the parents request.

### **3. Initial referral for a suspected disability**

On the date of the referral, the JCESC must provide the parents with a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)**. For a parental referral, the date of referral is the date that the JCESC received either the verbal or written request from the parents to conduct an evaluation. For a JCESC referral, the date of referral is the date that the screening or review team decided an evaluation should be conducted. See Evaluation – 6.2 Request and Referral for Initial Evaluation. Within 30 days of the date of initial referral by the parents for a suspected disability, the JCESC must provide the **Prior Written Notice to Parents PR-01** form to the parents if the JCESC does not suspect a disability.

### **4. Initial evaluation**

Within 30 days of the date of initial referral by the parents for a suspected disability, the JCESC must provide the **Prior Written Notice PR-01** form to the parents and receive written, **informed consent (Parent Consent for Evaluation PR-04 form)** from the parents prior to conducting any assessments as part of an initial evaluation. A description of any evaluation procedures the JCESC proposes to conduct must also be provided to the parents. (If the notice relates to an action proposed by the JCESC that also requires parental consent, the JCESC may give notice at the same time it requires parental consent.)

### **5. Eligibility determination**

If the evaluation team determines that a child is not eligible for special education and related services the JCESC will provide the parents the **Prior Written Notice to Parents PR-01** form once this determination is made. If the evaluation team determines that a child is eligible for special education and related services, see Item number 6, IEP Meeting.

### **6. IEP Meeting**

The JCESC must use the required **Parent Invitation PR-02** form to notify and invite the parents to an IEP meeting. The JCESC must take steps to ensure that one or both parents are present at each IEP meeting or are afforded the opportunity to participate. This requires that the JCESC:

- Notify the parents of the IEP meeting early enough to ensure that they have an opportunity to attend; and
- Schedule the meeting at a mutually agreed upon time and place.

The JCESC must provide the **Prior Written Notice to Parents PR-01** form after an IEP meeting, if the parents do not agree with the IEP or any portion of the IEP or do not attend the meeting.

The JCESC must provide **prior written notice** to the parents and receive **written, informed consent** from the parents before the initial placement of a child in special education. The **IEP PR-07** form serves as prior written notice unless the parents disagree with the IEP. Written informed consent to initiate special education and related services is provided through the parents' signature on the IEP form.

#### **7. Reevaluation with assessments conducted**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form and obtain **informed parental consent (Parent Consent for Evaluation PR-05 form)** before conducting any tests or assessments as part of a reevaluation of a child with disabilities, unless the JCESC has provided notice and the parents have failed to respond to reasonable attempts to obtain consent.

The JCESC must provide the **Prior Written Notice to Parents PR-01** form after the reevaluation is completed, if the parents disagree with the reevaluation or the reevaluation results in a change in the child's disability category.

#### **8. Reevaluation without further assessments conducted**

If the evaluation team determines that no additional data are needed to determine that the child continues to be a child with a disability and to determine the child's educational needs, the evaluation team must notify the child's parents. The notification that no further assessments are necessary must include:

- The team's determination and the reasons for the determination; and
- The parents' right to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs.

The **Prior Written Notice to Parents PR-01** form may be used for this notification as long as it includes the information listed directly above.

The JCESC must provide the **Prior Written Notice to Parents PR-01** form after the reevaluation is completed, if the parents disagree with the reevaluation or the reevaluation results in a change in the child's disability category.

#### **9. No reevaluation conducted**

If the IEP team, including the parents, agrees that a reevaluation of a child is unnecessary, the JCESC must provide the **Prior Written Notice to Parents PR-01** form.

## **10. Transfers from out of state and out of JCESC service delivery area**

Upon the enrollment of a child with an existing IEP from another district or state, the JCESC must convene the IEP team and determine if the team will accept the existing IEP or change the existing IEP. If the parents disagree with the IEP team on the IEP that will be implemented by the JCESC, the **Prior Written Notice to Parents PR-01** form must be provided to the parents. See IEP – 7.1 General.

### **Transfers from out of state**

If the child moved into the JCESC from another state, the JCESC must provide the parents with a copy of the **procedural safeguards notice** (*A Guide to Parent Rights in Special Education*).

If the JCESC determines that a new evaluation is necessary for a child who transfers from out of state, the evaluation is considered an initial evaluation and the JCESC must provide the **Prior Written Notice to Parents PR-01** form and obtain written parental consent (**Parent Consent for Evaluation PR-05** form). See Evaluation – 6.2 Request and Referral for Initial Evaluation.

### **Transfers from out of JCESC service delivery area**

If the child transfers into the JCESC from another district in the state, the JCESC provides the parents with a copy of the **procedural safeguards notice** (*A Guide to Parent Rights in Special Education*) if the sending school district had not provided the parents with a copy during the current school year.

If the IEP team refers a child who transfers from another district in the state for additional evaluation, the evaluation is considered to be a reevaluation. The JCESC must provide the **Prior Written Notice to the Parents PR-01** form and obtain written parental consent. (**Parent Consent for Evaluation PR-05** form). See Evaluation – 6.5 Reevaluation.

## **11. Change of placement**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form after an IEP meeting, if the parents do not agree with the IEP team's proposed change of placement on the continuum of alternative placement options. The JCESC may not change the child's placement until the parents consent to the proposed change of placement.

## **12. Change in the type and amount of services**

The JCESC must provide the **Prior Written Notice to Parents PR-01 form** after an IEP meeting, if the parents do not agree with the changes in the types and amount of services being proposed. The JCESC may then proceed to implement the IEP.

## **13. Exit from special education**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form whenever a child exits special education. In addition, for a child whose eligibility for special education terminates because the child is graduating with a regular diploma or exceeding the age eligibility for special education, the JCESC must provide the child with a **summary of the child's academic achievement and functional performance**, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

#### **14. JCESC refuses services requested by parents**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form to the parents any time the JCESC refuses the request of the parents to provide special education and related services to the child.

#### **15. JCESC proposes/refuses to change disability category**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form to the parents any time the JCESC proposes or refuses to change the child's disability category. The ETR and the documentation of eligibility can be considered a prior written notice if all the elements required in a prior written notice are present in the ETR and determination of eligibility.

#### **16. Releasing personally identifiable information**

The JCESC must obtain **written parental consent** prior to releasing any personally identifiable information about the child to any person or agency not entitled by law to see it, and to a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

#### **17. Destruction of personally identifiable information**

The JCESC must inform the parents when personally identifiable information collected, maintained and used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a child's name, address, telephone number, grades, attendance record, classes attended, grade level completed and year completed shall be maintained without time limitation. This **notification may be in writing or provided verbally**. If provided verbally, the JCESC should document this notification in the child's education record

#### **18. Transfer of parental rights**

One year before the child's 18th birthday, the JCESC must notify both the child and the parents of the parental rights, under Part B, that will transfer to the child upon reaching the age of majority. The JCESC also must provide the child with a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)**. This notification is documented on the child's **IEP PR-07** form.

#### **19. Upon receipt of the first due process complaint or upon receipt of the first state complaint in the school year**

The JCESC must give the parents a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)** upon receipt of the parents' first due process request. The Ohio Department of Education, Office for Exceptional Children gives the parents a copy of the **procedural safeguards (*A Guide to Parent Rights in Special Education*)** upon the parents' filing of the first state complaint within the school year.

#### **20. Disciplinary change in placement**

Whenever a change of placement occurs due to disciplinary action, a copy of the **procedural safeguards notice (*A Guide to Parent Rights in Special Education*)** and **Prior Written Notice PR-01** form must be provided.

## **21. Revocation of consent (must be in writing)**

The JCESC must provide the **Prior Written Notice to Parents PR-01** form if the parents of a child with a disability revoke consent in writing for the continued provision of all special education and related services. This notice must include:

- A summary of all of the supports and services the child will no longer receive, and any change in educational placement that will occur as a result of the revocation of consent.
- Statements that once the revocation takes effect, the JCESC will not be considered to be in violation of its requirement to make FAPE available, is not required to convene an IEP meeting or develop an IEP, is not required to conduct a three year reevaluation, is not required to offer the child the discipline protections available under IDEA and is not required to amend the child's education records to remove any reference to the child's receipt of special education and related services.
- A statement that by revoking consent for special education and related services for the child, the parent is not waiving the right to request an initial evaluation or to receive services in the future.

## **C. PARENTAL CONSENT**

Consent means that the parents:

- (a) Have been fully informed, in the parents' native language or other mode of communication, of all information relevant to the activity for which consent is sought;
- (b) Understand and agree in writing to the carrying out of the activity for which the consent was asked. The consent describes that activity and lists the records (if any) that will be released and to whom they will be released; and
- (c) Understand that the granting of consent is voluntary and may be revoked at any time.

### **(1) ACTIONS REQUIRING INFORMED WRITTEN PARENTAL CONSENT**

The JCESC obtains written consent from the parents before:

- (a) Conducting an initial evaluation to determine if a child is eligible for special education; (b) Initially providing special education and related services;
- (c) Conducting a reevaluation when assessments are needed;
- (d) Making a change in placement on the continuum of alternative placement options (i.e., regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions); and
- (e) Releasing personally identifiable information about the child to any person other than a person authorized to obtain those records without parental consent pursuant to FERPA. For example, parental consent is obtained prior to releasing records to a representative of an agency that is likely to be responsible for providing or paying for transition services for the purposes of billing Medicaid.

The JCESC uses the ODE-OEC required Consent for Evaluation PR-05 form to obtain written parental consent for evaluation and reevaluation and the required IEP PR-07 form to obtain written parental consent for the initial provision of special education and related services and for making a change in placement.



The JCESC does not obtain written parental consent when reviewing existing data as part of an evaluation or reevaluation or when administering a test or evaluation that is given to all children, unless consent is required of all parents.

## **(2) CHANGE IN PLACEMENT**

Once the JCESC receives the initial parental consent for special education and related services, the JCESC must obtain consent only for a change in placement. A “change of placement” means a change from one option on the continuum of alternative placements to another (instruction in regular classes, special schools, home instruction and instruction in hospitals and institutions).

If the JCESC cannot obtain parental consent, it may file a due process complaint requesting a due process hearing or engage in conflict resolution to obtain agreement or a ruling that the placement may be changed.

## **(3) PARENTS’ FAILURE TO RESPOND OR REFUSAL TO PROVIDE CONSENT**

The JCESC makes “reasonable efforts” to contact parents and obtain written parental consent that may include:

- (a) Written correspondence;
- (b) Phone calls;
- (c) Electronic mail communications, to include but not limited to e-mail and password-protected parent pages; and/or
- (d) Visits to the home or parents’ places of employment.

The JCESC documents its attempts. If the parents fail to respond or refuse to provide consent, the JCESC proceeds as follows:

## **(4) INITIAL EVALUATION**

If the parents fail to respond to the JCESC’s efforts to obtain consent or refuse consent for the initial evaluation, the JCESC may:

- (a) Request a due process hearing and engage in conflict resolution (e.g., resolution meeting and/or mediation) to convince the parents to provide their consent; or
- (b) Decide not to pursue the initial evaluation and provide the parents with prior written notice.

If the child is being home schooled or has been placed in a private school at the parents’ expense, the JCESC cannot file a due process complaint or request the parents to participate in a resolution meeting and/or mediation.

## **(5) REEVALUATION**

If the parents fail to respond to the JCESC’s efforts to obtain consent for a reevaluation when assessments are needed, the JCESC proceeds with the reevaluation.

If the parents expressly refuse consent for a reevaluation when assessments are needed, the JCESC may:

- (a) Agree with the parents that a reevaluation is unnecessary;
- (b) Conduct a reevaluation by utilizing data and/or documentation that the JCESC already possesses;
- (c) Request a due process hearing and engage in conflict resolution (e.g., resolution meeting and/or mediation) to convince the parents to provide their consent; or
- (d) Decide not to pursue having the child reevaluated.

The JCESC continues to provide FAPE to the child if the JCESC agrees with the parents that a reevaluation is unnecessary.

## **(6) INITIAL PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES**

If the parents do not attend the IEP meeting to develop the IEP for the initial provision of services, the JCESC attempts to obtain written parental consent through other methods such as calling the parents, corresponding with the parents and or visiting the parents.

If the parents expressly refuse consent, as evidenced by their signatures on the IEP indicating that consent is not given, the JCESC maintains a copy of the signed IEP showing that the JCESC offered FAPE.

If the parents fail to respond or refuse consent, the JCESC provides the parents with prior written notice and continues to provide the child with appropriate interventions in the regular education classroom. The JCESC may not request a due process hearing or engage in conflict resolution to obtain agreement or a ruling that services may be provided to the child.

The JCESC does not use the parents' refusal to consent to one service or activity to deny the parents or the child any other service, benefit or activity in the JCESC, except in those instances in which IDEA authorizes that denial.

## **(7) REVOCATION OF CONSENT**

The parents may revoke consent for and remove the child from special education and related services. Once the JCESC receives written revocation of consent, it provides the parents with prior written notice and continues to provide the child with appropriate interventions through the regular education environment.

The JCESC is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent. If a parent has provided written revocation of consent, the JCESC does not file a due process complaint or engage in conflict resolution to attempt to obtain agreement or a ruling that special education and related services may be provided to the child.

## **IV. EVALUATION**

The JCESC ensures that initial evaluations are conducted and that reevaluations are completed for children residing within the JCESC service delivery area. The JCESC uses a referral process to determine whether or not a child is a child with a disability. The JCESC also provides interventions to assist a child who is performing below grade-level standards. The provision of intervention services is not used to unnecessarily delay a child's evaluation for purposes of determining eligibility for special education services.

## **A. INITIAL EVALUATION**

### **1. TIMING AND INITIATION**

The JCESC conducts an evaluation before the initial provision of special education and related services. Either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

Within 30 days of receipt of a request for an evaluation, the JCESC either obtains parental consent for an initial evaluation or provides to the parents prior written notice stating that the JCESC does not suspect a disability and will not be conducting an evaluation.

The initial evaluation:

- (a) Is conducted within 60 days of receiving parental consent for the evaluation unless the exception set forth in 3301-51-06(B)(5) of the Operating Standards applies; and
- (b) Consists of procedures:
  - (i) To determine if the child is a child with a disability as defined in 3301-51-01(B)(10) of the Operating Standards; and
  - (ii) To determine the educational needs of the child.

The JCESC obtains parental consent before conducting an evaluation. See Chapter IV, Section C, regarding parental consent requirements.

The evaluation team consists of the IEP team and other qualified professionals.

### **2. THE EVALUATION PLAN AND EVALUATION TEAM REPORT**

As part of the initial evaluation, if appropriate, and as part of any reevaluation, the evaluation team shall develop an evaluation plan that will provide for the following and be summarized in an evaluation team report:

- (a) Review of existing evaluation data on the child, including:
  - (i) Evaluations and information provided by the parents of the child;
  - (ii) Current classroom-based, local or state assessments and classroom based observations;
  - (iii) Observations by teachers and related services providers;
  - (iv) Data about the child's progress in the general curriculum, or, for the preschool-age child, data pertaining to the child's growth and development;
  - (v) Data from previous interventions, including:
    - (a) Interventions required by rule 3301-51-06 of the Operating Standards and
    - (b) For the preschool child, data from early intervention, community, or preschool program

providers; and

(vi) Any relevant trend data beyond the past twelve months, including the review of current and previous IEPs; and

(b) On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:

(i) Whether the child is a child with a disability, as defined in 3301-51-01 of the Operating Standards, and the educational needs of the child;

(ii) In the case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;

(iii) The present levels of academic achievement and related developmental needs of the child;

(iv) Whether the child needs special education and related services; or

(v) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(vi) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

The JCESC administers such assessments and other evaluation measures as may be needed to produce the data identified above. The JCESC provides prior written notice to the parents of a child with a disability that describes any evaluation procedures the JCESC proposes to conduct.

### **3. CONDUCT OF EVALUATION**

In conducting the evaluation, the JCESC:

(a) Uses a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent, that may assist in determining:

(i) Whether the child is a child with a disability as defined in 3301-51-01(B)(10) of the Operating Standards; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child to participate in appropriate activities);

(b) Does not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(c) Uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

The JCESC ensures that:

(a) Assessments and other evaluation materials used to assess a child:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information about what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;

- (iii) Are used for the purposes for which the assessments or measures are valid and reliable;
  - (iv) Are administered by trained and knowledgeable personnel; and
  - (v) Are administered in accordance with any instructions provided by the producer of the assessments.
- (b) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- (c) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the child's impaired sensory, manual or speaking skills (unless those skills are the factors that the test purports to measure);
- (d) A school age child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities;
- (e) Preschool children are assessed in the following developmental areas: adaptive behavior, cognition, communication, hearing, vision, sensory/motor function, social-emotional functioning and behavioral function.
- (f) Assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with 3301-51-06(B)(5)(b) and (B)(6) of the Operating Standards, to ensure prompt completion of the full evaluations.
- (g) In evaluating each child with a disability under 3301-51-06(E)-(G) of the Operating Standards, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- (h) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided, including implications for instruction and progress monitoring.
- (i) Medical consultation shall be encouraged for a preschool or school-age child on a continuing basis, especially when school authorities feel that there has been a change in the child's behavior or educational functioning or when new symptoms are detected; and
- (j) For preschool-age children, as appropriate, the evaluation shall include the following specialized assessments:
- (i) Physical examination completed by a licensed doctor of medicine or doctor of osteopathy in cases where the disability is primarily the result of a congenital or acquired physical disability;
  - (ii) Vision examination conducted by an eye care specialist in cases where the disability is primarily the result of a visual impairment; and
  - (iii) An audiological examination completed by a certified or licensed audiologist in cases where the disability is primarily the result of a hearing impairment.

## **B.ELIGIBILITY DETERMINATION AND EVALUATION TEAM REPORT**

### **1. COMPLETION OF THE EVALUATION TEAM REPORT**

The following occurs upon completion of the administration of assessments and other evaluation measures:

- (a) The IEP team and other qualified professionals and the parent of the child determines whether the child is a child with a disability, in accordance with the Operating Standards; and
- (b) The JCESC provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

The written evaluation team report shall include:

- (a) A summary of the information obtained during the evaluation process; and
- (b) The names, titles and signatures of each team member, including the parent, and an indication of whether or not they are in agreement with the eligibility determination. Any team member who is not in agreement with the team's determination of disability shall submit a statement of disagreement.

The JCESC provides a copy of the evaluation team report and the documentation of determination of eligibility or continued eligibility to the parents prior to the next IEP meeting and in no case later than 14 days from the date of eligibility determination.

## **2. DETERMINATION OF ELIGIBILITY**

A child is not determined to be a child with a disability:

- (a) If the determinant factor for that determination is:
  - (i) Lack of appropriate instruction in reading, including the essential components of reading instruction as defined in Section 1208(3) of the Elementary and Secondary Act of 1965, as amended and specified in the No Child Left Behind Act of 2002, January 2002, 20 U.S.C. 6301 (ESEA);
  - (ii) Lack of appropriate instruction in math; or
  - (iii) LEP; and
- (b) If the child does not otherwise meet the eligibility criteria under 3301-51-01(B)(10) of the Operating Standards.

The JCESC, in interpreting evaluation data for the purpose of determining if a child is a child with a disability, does the following:

- (a) Draws upon information from a variety of sources, including aptitude and achievement tests, state wide assessments, parent input and teacher recommendations, as well as information about the child's physical condition, social or cultural background and adaptive behavior; and
- (b) Ensures that information obtained from all of these sources is documented and carefully considered.

If a determination is made that a child has a disability and needs special education and related services, the JCESC develops an IEP for the child.

### **C. Reevaluations**

The JCESC conducts reevaluations of a child with a disability:

- (a) If the JCESC determines that the child's educational or related services needs, including improved academic achievement and functional performance, warrant a reevaluation; or
- (b) If the child's parent or teacher requests a reevaluation; or

- (c) When a child transitions from pre-school to school-aged services; or
- (d) In order to make a change in disability category.

A reevaluation may not occur more than once a year, unless the parent and the JCESC agree otherwise.

A reevaluation must occur at least once every three years, unless the parent and the JCESC agree that a reevaluation is unnecessary.

The JCESC evaluates a child with a disability before determining that child is no longer a child with a disability, although this evaluation is not required if the child's eligibility terminates due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. If a child's eligibility terminates for one of these reasons, the JCESC provides the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

#### **D. Identifying Children With Specific Learning Disabilities (SLD)**

The JCESC has written procedures for the implementation of the evaluation process the JCESC uses to determine the existence of a specific learning disability (SLD). In addition, the JCESC uses the form required by ODE-OEC, Evaluation Team Report PR-06 and completes Part 3: Documentation for Determining the Existence of a Specific Learning Disability of PR-06 when the JCESC suspects the child has a SLD.

##### **(1) DETERMINING THE EXISTENCE OF A SPECIFIC LEARNING DISABILITY**

The parents, the IEP team, and a group of qualified professionals from the JCESC determine that a child has a SLD if:

(a) The child does not achieve adequately for the child's age or to meet state-approved grade-level standards in one or more of the following areas, when the JCESC provides learning experiences and instruction appropriate for the child's age or state-approved grade-level standards:

- (i) Oral expression;
- (ii) Listening comprehension;
- (iii) Written expression;
- (iv) Basic reading skill;
- (v) Reading fluency skills;
- (vi) Reading comprehension;
- (vii) Mathematics calculation; or
- (viii) Mathematics problem-solving;

**AND**

(b) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in number 1, above, when the JCESC uses an evaluation process to determine the child's response to scientific, research-based intervention;

**OR**

(c) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, when the JCESC uses appropriate assessments consistent with 3301-51-06(E) and (F) of the Operating Standards that the group has determined to be relevant to the identification of a SLD.

Alternatively, the JCESC may choose a third method of evaluation, for determining if a child has a SLD. The JCESC seeks prior approval from ODE-OEC if it chooses to use an alternative research-based assessment procedure to determine if a child has a SLD.

**(2) Use of an Evaluation Process Based on the Child's Response to Scientific, Research-based Intervention for SLD Determination**

The JCESC uses an evaluation process based on the child's response to scientific, research-based intervention to determine whether a child has a SLD. The JCESC ensures that this process:

- (a) Begins when the JCESC has gathered and analyzed sufficient data from scientifically-based instruction and targeted and intensive individualized interventions that provide evidence that the child's needs are unlikely to be met without certain specialized instruction, in addition to the regular classroom instruction;
- (b) Employs interventions that are scientifically-based and provided at appropriate levels of intensity, frequency, duration and integrity, relative to the child's identified needs;
- (c) Is based on results of scientifically-based, technically adequate assessment procedures that assess ongoing progress while the child is receiving scientifically-based instruction and the results of these procedures have been reported to the child's parents; and
- (d) Includes the analysis of data described in 3301-51-06(H)(3)(b)(i) and (H)(3)(b)(ii) of the Operating Standards to determine whether a discrepancy is present between the child's actual and expected performance, in both the child's rate of progress in developing skills, and in the child's level of performance on measures assessing one or more of the academic areas listed in 3301-51-06(H)(3)(a)(i) of the Operating Standards

The JCESC will not use this process to delay unnecessarily a child's referral for a comprehensive evaluation to determine eligibility for special education services.

**(3) Additional Requirements for SLD Determination**

The JCESC ensures that the following additional requirements are satisfied when determining if a child has a SLD:

**Inclusion of additional required group members for SLD determination**



The group that determines that a child suspected of having a SLD is a child with a disability includes the child's parents and a group of qualified professionals consisting of, but not limited to:

- (a) In the case of a school-age child, the child's regular teacher (or if the child does not have a regular teacher, the JCESC includes a regular classroom teacher qualified to teach a child of the child's age);
- (b) In the case of children less than school-age, an individual qualified by ODE to teach a child of the child's age; and

At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist or remedial reading teacher.

### **Observation requirements**

The JCESC ensures that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty. The group of qualified professionals identified by the JCESC conducts the observation by:

- (a) Using information from an observation of the child's performance conducted during routine classroom instruction, including monitoring of the child's performance during instruction, that was done before the child was referred for an evaluation; or
- (b) Having at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parent consent has been obtained.

In the case of a child of less than school-age or a child who is out of school, the JCESC ensures that a group member observes the child in an environment appropriate for a child of that age.

### **Ensuring the child's underachievement is not due to a lack of appropriate instruction in reading and math**

In order to ensure that underachievement in a child suspected of having a SLD is not due to lack of appropriate instruction in reading or math, the JCESC considers:

- (a) Data demonstrating that prior to, or as part of, the referral process, the child received appropriate instruction in regular education settings delivered by qualified personnel; and
- (b) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, the results of which were provided to the child's parents.

### **Obtaining parental consent to evaluate**

The JCESC promptly requests parental consent to evaluate a child to determine if the child needs special education and related services:

- (a) If prior to the referral, the child does not make adequate progress after an appropriate period of time when provided with appropriate instruction. To make this determination, the JCESC

considers:

- (i) Data demonstrating that prior to, or as part of, the referral process, the child received appropriate scientifically-based instruction in regular education settings delivered by qualified personnel; and
  - (ii) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, the results of which were provided to the child's parents; and
- (b) Whenever a child is referred for an evaluation.

### **Consideration of exclusionary factors**

When determining that a child has a SLD, the JCESC ensures that the findings from the evaluation process are not primarily the result of:

- (a) A visual, hearing, or motor disability;
- (b) Mental retardation;
- (c) Emotional disturbance;
- (d) Cultural factors;
- (e) Environmental or economic disadvantage; or
- (f) LEP.

If the JCESC determines that one of these factors is the primary reason for the child's suspected disability, the JCESC does not identify the child as having a SLD.

## **V. INDIVIDUALIZED EDUCATION PROGRAMS (IEPs)**

The JCESC ensures that an IEP is developed and implemented for each child with a disability, ages 3 through 21, inclusive, who requires special education and related services and who resides in the JCESC service delivery area. For all children with disabilities for whom our JCESC is within the JCESC service delivery area, the JCESC is responsible for ensuring that the requirements of 3301-51-07 of the Operating Standards are met regardless of which district, county board of MR/DD, or other educational agency implements the child's IEP.

The meeting to develop an IEP is conducted within 30 days of a decision that a child needs special education and related services.

The initial IEP is developed within whichever of the following time periods is the shortest:

- (a) Within 30 calendar days of the determination that the child needs special education and related services;
- (b) Within 90 days of receiving informed parental consent for an evaluation; or
- (c) Within 120 calendar days of receiving a request for an evaluation from a parent or the JCESC (unless the evaluation team has determined it does not suspect a disability).

The JCESC ensures that the parents receive a copy of the child's IEP at no cost to the parents. The parents may receive a copy of the IEP either at the conclusion of the IEP meeting or within 30 calendar days of the date of the IEP meeting.

## **A. MEMBERS OF THE IEP TEAM**

The IEP team includes:

- (1) The child's parents;
- (2) Not less than one of the child's regular education teachers, if the child is or may be participating in the regular education environment;
- (3) Not less than one special education teacher of the child or, where appropriate, not less than one special education provider of the child;
- (4) A representative of the JCESC who:
  - a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - b) Knows the general education curriculum; and
  - c) Knows about the availability of resources of the JCESC.
- (5) Someone who can interpret the instructional implications of the evaluation results, who may be one of the team noted previously;
- (6) At the discretion of the parents or the JCESC, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) The child, whenever appropriate. The child must be invited if a purpose of the meeting is the consideration of postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.

A member of the IEP team, other than the parent and the child if appropriate, is not required to attend an IEP team meeting, in whole or in part, if the parent and the JCESC agree, in writing, that the attendance of that member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting or portion of the meeting.

## **B. PARENTAL PARTICIPATION**

The JCESC takes steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including:

- (1) Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually-agreed upon time and place.

A Notice to a Parent Regarding an IEP meeting:

- (1) Indicates the purpose, time and location of the meeting and who will be in attendance; and
- (2) Informs the parents of the provisions of the Operating Standards regarding the participation of other individuals who have knowledge or special expertise about the child and the participation of the Part C service coordinator or other representatives of the part C system at the initial IEP team meeting for a child previously served under Part C. See 3301-51-07(J)(2)(a)(ii) of the Operating Standards.

Beginning no later than the first IEP to be in effect when the child turns 14, the Notice also:

- (1) Indicates that a purpose of the meeting will be the development of a statement of the transition needs of the child; and
- (2) Indicates that the JCESC will invite the child.

Beginning no later than the first IEP to be in effect when the child turns 16, the Notice also:

- (1) Indicates that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child;
- (2) Indicates that the JCESC will invite the child; and
- (3) Identifies any other agency that will be invited to send a representative, if the parents consent.

The JCESC conducts IEP team meetings without a parent in attendance only if it cannot convince parents that they should attend. Before an IEP team meeting is held without a parent, the JCESC makes multiple attempts to contact a parent to arrange a mutually agreed on time and place, and records its attempts to do so.

### **C. CONTENTS OF AN IEP**

The JCESC uses ODE's required form, PR-07, for its IEPs.

In developing each child's IEP, the IEP team considers:

- (1) The strengths of the child;
- (2) The concerns of the parents for enhancing the education of their child;
- (3) The results of the initial or most recent evaluation of the child;
- (4) The results of the child's performance on any state -wide assessment programs, as appropriate; and
- (5) The academic, developmental and functional needs of the child.

Further, the IEP team considers the following special factors:

- (1) In the case of a child whose behavior impedes the child's learning or that of others, the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
- (2) In the case of a child with LEP, the language needs of the child as those needs relate to the child's IEP;
- (3) In the case of a child who is blind or visually impaired, the instruction of that child in accordance with the Operating Standards and section 3323.011 of the Revised Code;
- (4) The communication needs of the child, including those of a child who is deaf or hard of hearing; and
- (5) Whether the child needs assistive technology devices and services.

### **(1) CONTENTS OF EVERY IEP**

The JCESC's IEPs are written, and are developed, reviewed and revised in IEP meetings. The JCESC's IEPs include all of the following:

- (a) A statement that discusses the child's future and documents planning information;
- (b) A statement of the child's present levels of academic and functional performance,

including:

- (1) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
- (2) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (c) A statement of measurable annual goals, including academic and functional goals and benchmarks or short-term objectives designed to:
  - (1) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
  - (2) Meet each of the child's other educational needs that result from the child's disability;
- (d) A description of:
  - (1) How the child's progress toward meeting the annual goals described in the IEP will be measured; and
  - (2) When periodic reports on the progress the child is making toward meeting the annual goals will be provided;
- (e) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
  - (1) To advance appropriately toward attaining the annual goals;
  - (2) To be involved in and make progress in the general education curriculum in accordance with the Operating Standards, and to participate in extracurricular and other nonacademic activities; and
  - (3) To be educated and participate with other children with disabilities and nondisabled children, as appropriate, in the activities described in 3301-51-07(H)(1)(e) of the Operating Standards;
- (f) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular classroom and in activities; and location, amount of time and frequency where services will be provided;
- (g) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and JCESC wide assessments consistent with Section 612(a)(16) of the IDEA;
- (h) If the IEP team determines that the child must take an alternate assessment instead of a particular regular state or JCESC wide assessment of student achievement, a statement of why:
  - (1) The child cannot participate in the regular assessment; and
  - (2) The particular alternate assessment selected is appropriate for the child; and
- (i) The projected date for the beginning of the services and modifications described in the IEP and the anticipated frequency, location and duration of those services and modifications.
- (j) A statement describing the need for support for school personnel.

## **ASSISTIVE TECHNOLOGY**

The JCESC makes assistive technology available if required as part of the child's special education, related services or supplementary aids and services.

## **(2) TRANSITION SERVICES**

The JCESC's IEPs address transition services as follows:

(a) For children age 14 or over (or younger, if determined appropriate by the IEP team), the IEP includes a statement, updated annually, of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program.); and

(b) Beginning not later than the first IEP to be in effect when the child turns 16 (or younger if determined appropriate by the IEP team), the IEP includes:

(1) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

#### **(4) NONACADEMIC SERVICES, PHYSICAL EDUCATION, EXTENDED SCHOOL YEAR AND TRANSPORTATION**

If appropriate, the IEP includes the services to be provided in each of these areas.

#### **D. REVIEW AND AMENDMENT OF AN IEP**

The JCESC ensures that the IEP team:

(1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(2) Revises the IEP, as appropriate, to address:

(a) Any lack of expected progress toward the annual goals and in the general education curriculum;

(b) The results of any reevaluation;

(c) Information about the child provided to, or by, the parents as part of an evaluation or reevaluation;

(d) The child's anticipated needs; or

(e) Other matters; and

(3) Reconvenes if an agency, other than the JCESC, fails to provide the transition services described in the IEP.

Changes to the IEP may be made either at an IEP team meeting, or by a written document amending or modifying the IEP, if the parent of the child and the JCESC agree not to convene an IEP team meeting for the purposes of making those changes. If the IEP is amended by written document, without a meeting of the IEP team, the JCESC ensures that the IEP team is informed of the changes made. When an IEP is amended, the JCESC sends a copy of the amended IEP to the parent within thirty days of the date the IEP was amended.

#### **VII. LEAST RESTRICTIVE ENVIRONMENT (LRE)**

The JCESC ensures that, to the maximum extent appropriate, children with disabilities, including children in public or nonpublic institutions or other care facilities, are educated with children

who are nondisabled. Placement of students with disabilities in special classes, separate schooling or other removal from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services, modifications and/or accommodations cannot be achieved satisfactorily.

The JCESC ensures that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services in the least restrictive environment (LRE).

The JCESC determines the placement of a child with a disability at least annually, and the placement is based on the child's IEP, and is as close as possible to the child's home.

Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that the child would attend if nondisabled.

In selecting the LRE for a child with a disability, the IEP team considers any potential harmful effect on the child or on the quality of the services that the child needs.

A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

