

THOMAS

Academy



Helping students find Connection, Compassion & Character

Parent-Student Handbook

2024-2025

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Thomas Academy Charter School

Phone: 910-646-2237 Fax: 910-646-5083

Website: www.thomasacademync.org

The **Mission** of Thomas Academy, Inc. shall be to provide individualized education in a strength-based approach that addresses students' unique learning styles, cultivates lifelong learning, and promotes the building of character, allowing them to give back to their communities in a meaningful way.

The **Vision** of Thomas Academy Charter School (TA) is to be a school that serves the whole student and helps them find connections, compassion, and character. Thomas Academy is a community-based educational program of Boys and Girls Homes of North Carolina.

A message from the Principal

Greetings and a warm welcome to the 2024 - 2025 school year at Thomas Academy Charter School! We look forward to partnering with you and your student(s) in preparing for a pleasant and rigorous academic and social experience. Please consider becoming involved by serving on TA's School Improvement Team (SIT) and/or attending one of our many parent involvement events. TA's SIT meets the second and fourth Wednesday of the month at 1:30 PM in the high school library.

We hope the information contained within this handbook will be helpful in preparing you and your student(s) for success. Please read through this information and share with TA any suggestions you have to help ensure TA is the best educational setting for your child. Please sign and return the *Student Acknowledgement Page*. I look forward to working with you to support a positive and proactive learning environment in every classroom at TA.

Sincerely

Dr. Cathy C. Gantz

Dr. Cathy C. Gantz - cathy.gantz@thomasacademync.org
Principal of Thomas Academy Charter School

Governing Board - Meetings take place on the 2nd Tuesday of each month at 3:00 PM via Zoom.

Dave Wyatt - Board of Directors Acting Chairperson
Julie Wolfe
Woody Weddington
Christy Hopkins
Patricia Medlin
Dr. Terri Duncan
Mike Reid
Racheal Winger

STAFF

Administrative and Support Staff

Marc Murphy.....Superintendent
Dr. Cathy Gantz.....Principal
Jonathan Crawley.....Behavior Support Specialist
Olivia White.....Behavior Support Specialist
Jordan Smith Norris.....Healthcare Compliance Specialist
Shannon Britt.....Office and Data Manager

Teaching Staff

Donna Moody.....Middle School ELA
Charlotte Mitchell.....Middle School Science
Ashlee Smith.....Middle School Math
Cheryl Boswell.....EC Director
Laurie Taylor.....EC Assistant
Annese Haire.....High School Social Studies
Tara Haynes-Fisher.....High School ELA
Kendra Brown.....High School Math
Wayne Helms.....High School Science
Ashlee Ramirez.....High School On-Line Courses
Demetrius Gibson.....Health and P.E.
Kathryn Humphreys.....Art/Music
TBD.....JROTC

Calendar

TA will follow a traditional calendar that will include a two semester grading period. Each semester will have approximately two 9-week grading periods. Interim progress reports will be sent home at the end of the 5th week. See the school calendar (Page 31).

Daily Schedule

Normal hours are 8:00 AM to 2:30 PM. Students may not be dropped off before 7:50 AM. Students are tardy at 8:15 AM. Morning check in procedures (i.e, uniform, backpack, cellphone, keys) will occur in the gym. If a student arrives with a beverage, it must be unopened with the seal in tack.

Afternoon Dismissal Procedures

Students are dismissed from classes at 2:30 PM. Students will only be released to their Teaching Parent (TP) or an adult authorized to pick them up. Any adult with permission to check out or pick up a student **MUST** be listed on the student's Emergency Contact Form and transportation, notification should go to Mrs. Britt before 11:30 AM (shannon.britt@thomasacademync.org or 910-646-2237).

Promotion/Retention in Regard to Attendance Policy

Attendance and Excuses

- I. Definitions
 - A. Attending School Regularly - Defined in NC State standard of 90% for satisfactory attendance. Students must meet the "90% rule" for the state of North Carolina, which requires students to be present 90% of the time in class in order for the student to get credit. A student must be in attendance for 162 days.
 - B. Eligible Student - A student who is 18 years of age or older.
 - C. Parent - The biological or adoptive parent, legal guardian or person acting in the absence of the parent or guardian or otherwise has legal custody or care and control of a child.
 - D. Parenting Student - A student who is the mother, father, or legal guardian of a child.
 - E. Unlawful Absence - An absence, including absence for any portion of the day, for any reason other than those cited as lawful absences in NC State regulations.
- II. Guidelines
 - A. Students are expected to attend school and all classes regularly and punctually and may be excused from class or school only for reasons specified in NC State regulation, including lawful absences for pregnant and parenting students, or as authorized by the Superintendent or Principal.
 - B. Students shall be considered "attending" school when the student is physically on school grounds or is participating in instruction, virtual instruction, or instruction-related activities at an approved off-grounds location.
- III. Lawful and Unlawful Absences

A. Lawful Absence

1. It is the responsibility of the student, parent, or guardian to ensure that the student attends school every day. North Carolina Law requires that children between the ages of 7 and 16 years must attend school. Thomas Academy will diligently adhere to the North Carolina Compulsory School Attendance Law, including N.C.G.S. 115-378. The Superintendent/Principal may excuse a student's absence for the following reasons, if adequate evidence is provided.
 - a) Death in the immediate family
 - b) Illness of the student. The Principal may require a physician's certificate from the parent/guardian/teaching parent of a student including medical/dental appointments.
 - c) Court summons.
 - d) Hazardous weather conditions, which would endanger the health or safety of the student when in transit to and from school.
 - e) Work approved or sponsored by the school and accepted by the Superintendent or Principal as a reason for excusing the student.
 - f) Observance of a religious holiday.
 - g) State emergency.
 - h) Other emergency or set of circumstances, which, in the judgment of the Superintendent or Principal, constitutes a good and sufficient cause for absence from school.
 - i) Health exclusion, which includes immunizations and other health related communicable diseases.
 - j) Suspension.
 - k) Lack of authorized transportation. Lack of transportation does not include students denied authorized transportation for disciplinary reasons.
 - l) Absences related to pregnancy and parenting student related conditions.
2. Absences are coded lawful when a note or other documentation that supports the reason for the absence is submitted to the school.

B. Pregnant and Parenting Students

1. A student's absence due to a student's pregnancy or parenting needs is a lawful absence as provided under this subparagraph.
2. Schools will excuse all student absences due to pregnancy or parenting-related conditions, including for labor, delivery, recovery, and prenatal/postnatal medical appointments, including:
 - a) Providing at least 10 days of excused absences for a parenting student after the birth of the student's child.
 - b) Excusing any parenting-related absences due to an illness or medical appointment of the student's child, including up to 4 days of absence per school year for which the school may or may not require a note from a physician.

- c) Excusing any absence due to a legal appointment involving the pregnant or parenting student that is related to family law proceedings, including adoption, custody, and visitation.
 - d) Excusing any parenting-related absence from a class due to use of a lactation space to nurse or to express breast milk.
3. In addition to home and hospital services, the school may allow the student to:
- a) Choose one of the following alternatives to make up work that the student missed:
 - (1) Retake a semester.
 - (2) Participate in an online course recovery program
 - (3) Allow the student 6 weeks to continue at the same pace and finish at a later date
 - (4) Participation in an Adult High School Diploma Program.

C. Unlawful Absence

An unlawful absence, including absence for any portion of the day, for any reason other than those cited as lawful is presumed to be unlawful and may constitute truancy.

D. Tardiness and Early Dismissal

- 1. Students reporting late to school/class are considered tardy.
- 2. Leaving school/class before the day/period ends is considered early dismissal.
- 3. School personnel will designate tardiness and early dismissal as lawful or unlawful.

E. Truant or Chronically Absent Student

A truant student or chronically absent student is a student who is unlawfully absent from school:

- 1. For more than 4 days in any quarter
- 2. For more than 9 days in any semester
- 3. For more than 18 days in any school year.

IV. Standards for Regular Attendance

- A. Students are expected to maintain satisfactory attendance at the NC state standard of 90%.
- B. In order to foster continuity of the instructional program, students should not exceed an absence rate of 10% of four days in a given quarter.

V. Verifying Absences/Tardiness

- A. A written explanation of each absence is required from the parent/guardian/teaching parent/eligible student.
- B. The Principal shall implement the following procedures for verifying student absences and tardiness.
 - 1. Unless the parent has notified the school of their child's absence, the parent will be notified, to the extent possible, by 10 AM of their child's absence each day the child is absent, unless the opening of school is delayed.

- a) In the event of a delayed opening of one hour, the parent will be notified of a student's absence, to the extent possible by 11 AM.
 - b) In the event of a delayed opening of two hours, the parent will be notified of a student's absence to the extent possible by 12 noon.
 2. Notice of the student's absence must be made via phone, email, or text message.
 3. The Principal will ensure that the parents are notified of these absence procedures at the beginning of each school year.
 4. Annually, the Principal shall designate the person(s) responsible for providing notice under this paragraph.
- C. A student absent from school shall present a note to the school Principal immediately upon returning to school.
 1. The absence note shall be signed by the parent/guardian/teaching parent/eligible student and include the name of the student, the date of the absence, and the reason for the absence.
 - a) The absence note shall be submitted to the school Principal no later than five days after the student's return to school.
 - b) The absence note may be submitted in person or by electronic mail (e-mail) to the school Principal.
 2. Upon receipt of the absence note, the school will certify the absence as excused or unexcused.
 3. Absences not supported by a note will be considered unexcused and unlawful.
 4. If a student is absent for an extended period of due to illness, a written statement of explanation may be required from the physician no later than five days after the student's return to class.
- D. Any absence or tardiness not supported by a parent/eligible student note will be marked as an unlawful absence.

VI. Student Chronic Absenteeism

Based on the NC State Board of Education Policy ATND-004, student chronic absence is a risk factor for adverse student outcomes.

Student Chronic Absentee is a student enrolled in a North Carolina public school for at least 10 school days at any time during a school year and whose total number of absences is equal to or greater than 10% of the total number of days that the student has been enrolled in the school. ***Student chronic absence refers to missing an excessive number of school days for ANY reason (excused, unexcused, or disciplinary); that student is at risk of falling behind and not passing the school year.*** The faculty and staff of Thomas Academy will be ever vigilant to identify and assist students who have chronic absences by regularly contacting the parent/guardian/TPs. The Superintendent and Principal will notify Social Services and Juvenile Justice counselors when their assistance is required. **In order to learn and progress academically STUDENTS MUST BE IN ATTENDANCE.**

Chronically absent students in grades 6 - 12 can make up missed time by attending an after school homework club or in school required study hall sessions. In order for a student to attend the after school homework club, the student and parent must sign a contract denoting the rules and procedures for the homework club.

At more than 18 absences whether excused or unexcused in a year-long course and more than 9 absences in a semester-long course, a student may fail the course and be retained. Students who have a chance, a grade 55 or above, to pass academically may be offered attendance recovery.

VII. Make-up Work

- A. It is the responsibility of the student or the student's parent/guardian/TP to request missed assignments for each unlawful absence.
- B. After 5 school days, and in normal circumstances, any missed assignments not turned in will be graded as a zero. Principal approval is required for any requests for credit for assignments not turned in after 5 days.
- C. Teachers will assist students in making up missed work for excused absences.
- D. Suspension/Expulsions: Make-up work will be allowed. See A. Lawful Absence, j.
- E. Make up work for pregnant and parenting students shall be provided as outlined in paragraph III-B.2.b of this rule.

VIII. Attendance Monitoring

- A. Recording Absences
 - 1. The homeroom teacher is responsible for recording the attendance of students in class. Teachers shall record absences in PowerSchool reporting system daily.
 - 2. Teachers shall maintain records in accordance with the applicable records retention schedule.
- B. Schools should utilize the interventions outlined in the attendance manual for students who are not meeting the attendance standard, without a documented and approved excuse.
- C. Students who have not shown improvement will be referred to JDD and DSS.
- D. Report cards will record the number of excused and unexcused absences and tardies.

IX. Parental Accountability

- A. Each person who has legal custody or care and control of a child who is five years old or older and under 18 shall see that the child attends school regularly during the entire school year, unless the child is otherwise exempted from attendance as provided by state law.
- B. Thomas Academy will hold the parent/legal custodian responsible for the attendance of a child and may file charges, as required by state statute, in district court against a parent/legal custodian who fails to see that the child receives instruction under the NC Compulsory Attendance Law.

Additional School/Attendance Policy

Middle School

Parents will be contacted by the teacher after a student absence of TWO CONSECUTIVE DAYS or after a student absence of THREE NON-CONSECUTIVE DAYS.

Students who miss more than 18 days per year (regardless of reason) will be in danger of failing for the year. Students must be in school for 3.5 hours to be considered present. Additionally, excessive tardiness and early check-outs will accumulate absences as well.

High School

Parents will be contacted by the teacher after a student absence of two days.

Attendance will be taken for each class. Students must be in class for at least 45 minutes in order to be counted present for that class. **A student who accumulates more than 9 absences in a class is in danger of failing that course.**

Notification and Excuse Notes

If your child is going to miss all or part of the school day, the parent/guardian/TP is asked to contact the office as soon as possible. A written explanation is required upon the student's return and should be given to the administrative assistant **within 3 days following the student's return**. An **Eligible Student**, one who is 18 years of age, must also provide excuse notes for absences.

Early Dismissal

If a student needs to leave school for any reason, the student's parent/guardian/TP must sign the student out at the front office. If the student returns to school the same day, he/she must present a written excuse to the office, sign back in and receive an admit slip. An eligible student must also follow the early dismissal rule. Eligible students **MUST** leave the campus immediately after signing out.

Driving to School

To drive to school a student must present proof of insurance, their driver's license, completed form, and fee to the front office. A form may be picked up from the front office. The driver will be assessed a fee of \$25.00 for a parking decal and then be assigned a parking space. Any student who receives a parking decal must turn their car keys in every morning during check in. TA is not responsible for any damage that occurs on school property. Additionally, any student who wishes to travel from TA to another location with a licensed driver must have the driver listed on the Emergency Contact form.

Lunch

There will be 5 separate lunch periods: 2 middle school and 3 high school lunches. Each will be approximately 20 minutes long. During this time students will go to the cafeteria where every student will be provided a hot lunch or may eat lunch brought from home. **Please remember that lunch food items must be eaten in the cafeteria. Beverages may not be brought to the cafeteria.**

Parent Conferences

Parent conferences will be held after the first progress report each semester to discuss student progress. Typically conferences will be scheduled from 1:00 PM - 5:00 PM. There will be a sign up process and a meeting will be held for EVERY individual student. We believe in the philosophy of “it takes a village” and to do that, everyone should be aware and on the same page with the child’s plan. If the scheduled date is not convenient, the parent/guardian/TP is responsible for contacting the teachers to set up an alternate date/time.

Health Care

As a preventative measure, we encourage everyone to wash hands often with soap and water, especially after a cough or sneeze (into the arm or tissue, please) and to avoid touching eyes, nose, and mouth. Health care policies are included in the appendices of this handbook.

Parents/Guardians/TP’s: Please do not send your child to school if they have been sick the previous night or morning in the home or cottage.

If children become sick during the school day, they will be sent to the school nurse who will call the parent/guardian/TP if necessary. Please keep your child at home if he/she has any of the following symptoms:

- Fever of 100.4 or higher
- Sore throat with fever
- Green or yellow discharge from eyes
- New skin rash
- Vomiting or diarrhea
- Lice (see policy in the appendix)
- Contagious diseases, e.g., flu, strep throat, chicken pox, conjunctivitis (pink eye), measles, whooping cough (pertussis), ect.

No student will be allowed to return to school until they have been fever free without aid of medicine (like Tylenol) for 24 hours.

Emergency Closing, School Cancellation, Inclement Weather

During extremely bad weather or other emergencies, it may become necessary to delay school, cancel school, or close school early. Once a decision has been made to alter the schedule in any way:

- All homes/cottages will be notified via ClassDojo by the Administration/Office; in case of inclement weather, please be sure to check your phone for notices.

- TA's Facebook page will reflect this notice.
- School closings and delays will be announced by the local TV and radio stations.

Announcements will be distributed in a timely manner to notify campus and community students when the make up day(s) will be scheduled.

School Property

Students are expected to respect school property at all times. Damage to school property may result in a fee for damages and/or replacement. Malicious damage will lead to disciplinary consequences.

Food/Drink

Students may bring an unopened, seal-in-tack drink into the classroom. Food/drink may be consumed in the classroom at the teachers discretion. We request that parents/guardians/TP's consider water as the student's beverage of choice.

Visitors/Volunteers

All visitors to the school, including parents, must enter and leave by the main entrance and sign in at the office upon arrival. From there, they will be allowed to visit the school area ONLY. All visitors to the Boys and Girls Home Campus should report to the Boys and Girls Home main office and sign in. All volunteers must have a criminal background check before they will be allowed to work with the students. Access to any school area by any visitor or volunteer is solely at the discretion of the principal.

Student Conduct Policies and Procedures

Code of Academic Conduct

The faculty and administration of TA will strive to provide appropriate support and direction to any student who needs assistance meeting educational goals, including meeting the requirements of the Code of Academic Conduct. TA strives to bring out the best in every student, including students who are having difficulties, while deterring any student from undermining the education of other students through actions which violate the Code of Academic Conduct.

The Code of Academic Conduct requires that students:

- Attend all classes daily, unless excused by the principal or designee.
- Arrive on time to all classes with necessary materials, as required by the teacher.
- Follow teacher/staff directions at all times and in all locations.
- Complete all work assigned by teachers and turn in by the due date.

Following these simple guidelines will ensure your child's success.

School Level System Discipline Policies

The Teaching Family Model

TA utilizes the Teaching Family Model, a positive focused behavior management system that focuses on reinforcing positive behaviors while teaching alternative behaviors when deficiencies are observed. The system focuses on “catching students being good” and immediately providing positive feedback which translates into incentives at the end of the week. The system identifies individual needs and assigns specific social skills to assist students being successful not only at school but also in the community. The system is designed to provide feedback to parents on how their child is performing daily with the use of a daily school note. The school note not only provides a summary of the skills reinforced or addressed for that day as well as any assignments that may be given for that evening. Every parent will be provided with a link to track their students behavior not only daily but hourly if they choose. There is also an opportunity for parents to add comments and provide feedback for teachers.

The system uses three levels based upon the student’s progression and consistent use of the social skill being taught. All students begin on the WHITE level focusing on 5 basic social skills.

- 1. Following instructions**
- 2. Accepting no for an answer**
- 3. Accepting feedback**
- 4. Asking permission**
- 5. Greeting skills**

Consistent demonstration of the 5 basic skills will lead to promotion to the GREEN level and ultimately the GOLD level.

ClassDojo will be used by the staff to document growth in the skills. As these 5 skills are achieved, new skills will be individualized for a student so that growth continues. Parents, students, teachers, and other stakeholders will be able to access this data. All will receive immediate feedback about a student’s progress.

Individualized incentives are provided based upon each student’s individual likes and interests as well as group incentives are developed by a student committee.

TA provides a unique opportunity for children to develop life long, consistent habits regarding behavior, work, and character. We place special emphasis on this development to nurture and promote the whole child as the student moves through developmental milestones during their school years.

To develop consistent behavior habits, TA strives to:

- Provide positive reinforcement at every opportunity.
- Create opportunities for children to demonstrate positive behavior.

- Develop and articulate appropriate behavior expectations at each grade level.
- Foster a relationship with parents/guardians/TPs to support student learning in the home and in the school.

To develop consistent work habits, TA strives to:

- Set high expectations per grade level as to quality of work.
- Value effort while promoting academic improvement.

To develop positive character, TA strives to:

- Create a mutually respectful environment in the classroom.
- Create opportunities for children to show gratitude and appreciation.
- Develop lesson plans to teach specific character skills and acknowledge their use by students.
- Provide positive reinforcement for cooperative skills.
- Provide opportunities for leadership.

Although the goal of these policies is to alleviate the need for punitive discipline, TA is committed to providing a safe and appropriate educational environment for all students at all times. TA students are expected to behave in an appropriate and respectful manner. Any disciplinary matters that disrupt the learning environment will be dealt with by the administrative staff and parents/guardians/TPs; therefore, the school administration has discretion to apply disciplinary consequences when necessary.

The purpose of a consequence is to change the behavior. Consequences issues may range from a conference with an administrator to out-of-school suspension and will be based on the severity of the incident as well as the frequency of the behavior. Ultimately we want students in school so they can learn; however, we must ensure a safe and productive learning environment.

Under no circumstances will drugs, cigarettes, vapes, alcohol, or weapons be tolerated on the TA campus. Additionally, any behaviors that may result in criminal charges being filed will be turned over to local law enforcement and parents/guardians/TPs will be notified.

Individualized Education Programs (IEPs) and 504's

Students with 504 plans or IEPs may be disciplined by the school principal and/or Behavior Specialists. When the disciplinary removal results in removal for more than ten (10) days total in the school year, students are entitled to a meeting to determine if certain conditions were met: 1) if the behavior that caused the suspension is a result of the disability, 2) if the IEP was being implemented at the time of the violation; and 3) if the student's IEP is appropriate.

The discipline of a child with a disability, including suspension, expulsion, or interim alternative placement of the child for disciplinary reasons, shall be conducted in conformance with the

requirements of the Individuals with Disabilities Act (IDEA) and Section 504 of the Rehabilitation Act.

Parents should refer to the Parental Rights Notice provided each year for more information about North Carolina procedural safeguards for students with IEPs. Please also refer to appendices F: Parental rights and responsibilities in special education, notice of procedural safeguards.

In accordance with IDEA, Section 504, and state and federal regulations, students must be provided access to a free and appropriate public education (FAPE) while removed from school.

Authority to Conduct Searches and Seizures

The objective of any search and/or seizure is not the eradication of crime in the community. Searches may be carried out to recover stolen property, to detect illegal substances or weapons, or to uncover any matter reasonably believed to be a threat to the maintenance of an orderly educational environment. The Board authorizes TA authorities to conduct reasonable searches of TA property and equipment, as well as students and their personal effects, to maintain order and security in the academy.

The search of a student by authorized TA authorities is reasonable if it is both:

1. Justified at its inception, and
2. Reasonably related in scope to the circumstances which justified the interference in the first place.

TA authorities are authorized to utilize any reasonable means, without touching the student, when conducting searches, including but not limited to the following:

1. A search of the student's clothing, including pockets;
2. A search of any container or object used by, belonging to, or otherwise in the possession or control of a student; and/or
3. Devices or tools such as breath-test instruments, saliva test strips, ect.

If a student chooses to bring personal items to school, TA is not responsible for damage or loss. A student's wireless communication device is taken up each morning and stored in the school office. At the end of the day, it is returned to the student as they depart from school. The wireless communication device and its contents, including but not limited to, text messages and digital photos, may be searched whenever a school official has reason to believe the search will provide evidence that the student violated or is violating a law or school rule. The scope of such searches must be reasonably related to the objectives of the search.

Discrimination, Harassment, and Bullying Policy

TA is committed to providing an environment that is conducive to learning, free from improper and illegal discrimination and harassment, particularly that which is based on race, religion,

gender, ethnicity, national origin, or disability. The faculty and staff will establish and maintain an atmosphere in which students can develop attitudes and skills for effective, cooperative living, including the following:

- Respect for individuals,
- Respect for cultural differences,
- Respect for economic, political, and social rights of others, and
- Respect for the rights of others to seek and maintain their own identities.

Bullying, harassment, intimidation, or hazing, by students, staff, or third parties, is strictly prohibited and shall not be tolerated. This includes bullying, harassment, or intimidation via electronic communication devices (“cyber bullying”).

Any student who believes she/he is the victim of harassment, bullying, and/or discrimination should immediately inform a trusted teacher or adult. Students may also directly inform the principal and/or a behavior intervention specialist. The incident must be investigated within 24 hours.

Discrimination involves intentionally treating anyone in an unequal or disparate manner because of that person’s inherent or natural personal characteristics, when such treatment causes the victim to suffer adverse educational, employment, or other school-related consequences. Harassment is any unwelcome offensive verbal, nonverbal, or physical conduct that is sufficiently severe, persistent, or pervasive as to significantly affect the conditions of one’s employment or student’s learning. Harassment includes, but is not limited to the following: abusive jokes, insults, slurs, name calling, threats, bullying or intimidation, unwelcome sexual advances, or the exchange of benefits for performance of sexual favors.

Bullying includes behaviors or communications, explicit and implicit, by one person or group towards another person or group that intimidates, threatens, or otherwise reasonably places the recipient(s) in fear of harm to person, property, or reputation. Bullying can occur in person, through traditional forms of communication, electronically via means such as social media, email, text messaging, and similar venues.

Discrimination, harassment, and bullying are prohibited at the school and during school related activities between students, employees, school agents, volunteers, visitors, and any other person associated with or under control of the school.

Procedures established by TA for reporting suspected discrimination, harassment, or bullying shall be followed in any instances involving such conduct (See page 15). TA Prohibits reprisal or retaliation against any person who reports an act of discrimination, harassment, or bullying. This policy, however, shall not be used to bring frivolous or malicious complaints.

The principal is authorized and expected to establish training and administrative procedures to help eliminate discrimination, harassment, and bullying to foster an environment of understanding and respect for all individuals.

Sexual Harassment Policy

Of the types of various harassment, sexual harassment is worthy of special considerations beyond those applicable under the school's general Harassment Policy. No employee or student shall engage in sexual harassment against any other student, employee, or another person in the school community. Sexual harassment includes any unwelcome sexual advance, request for sexual favors, or sexually suggestive comments/actions when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or education.
- Submission to or rejection of such conduct by an individual is used as the basis for student or employment decisions affecting such individuals.
- Such conduct has the purpose or effect of interfering with an individual's academic or work performance or creates an intimidating, hostile, or offensive educational or working environment.

A hostile environment exists if the conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a person's ability to participate in or benefit from the educational program or creates a hostile or abusive educational or work environment. The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include but are not limited to unwelcome touching, crude jokes or pictures, discussions or sexual experiences, pressure for sexual activity, intimidation by words, actions, insults, or name calling, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities.

Students who believe that they may have been sexually harassed or intimidated should consult a counselor. The administration and behavior intervention specialist will assist them in the complaint process. TA administration, faculty, and staff who knowingly condone or fail to report or assist a student to take action to remediate such behavior of sexual harassment or intimidation may themselves be subject to discipline.

Any TA employee who is determined, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any student of TA who is determined, after an investigation, to have engaged in sexual harassment will be subject to disciplinary action consistent with TA's discipline policy. Any person who knowingly makes false accusation regarding sexual harassment likewise will be subject to disciplinary action up to and including discharge with regard to employees or suspension and expulsion with regard to students.

TA will make every effort to ensure that employees or students accused of sexual harassment or intimidation are given an appropriate opportunity to defend themselves against such accusations.

To the greatest extent possible, TA will treat complaints in a confidential manner. TA realizes that limited disclosure may be necessary in order to complete a thorough investigation. Retaliation against persons who file a complaint is a violation of law prohibiting discrimination and will lead to disciplinary action against an offender.

Reporting

All complaints about behavior that may violate this policy shall be promptly investigated within 24 hours. Any student, employee, or third party who has knowledge of conduct in violation of this policy or feels he/she has been a victim of hazing, harassment, intimidation, or bullying in violation of this policy is encouraged to immediately report his/her concerns to the principal, who has overall responsibility for such investigations.

Procedures for Handling Discrimination, Harassment, or Bullying

1. Any student who believes he/she is the victim of harassment, bullying, and/or discrimination should immediately inform a trusted teacher or advisor. Students may also directly inform the principal. Students are also encouraged to inform their parents/guardians/TP's.
2. Any adult (faculty, parent, volunteer, visitor, ect.) who believes he/she is the victim of harassment, bullying, and/or discrimination to a school employee, that employee must notify the principal as soon as possible within 24 hours.
3. When anyone reports harassment, bullying, or discrimination to a school employee, that employee must notify the principal as soon as possible within 24 hours.
4. Complaints against the principal shall be filed with the Boys and Girls Home Board (BGH) of Trustees, the TA Board of Directors, and the president/CEO of BGH.
5. The complainant shall be notified of the findings of the investigation and, as appropriate, that remedial action has been taken.

Videotaping on School Property

TA possesses the ability to videotape students on school property. At the discretion of the Superintendent or the Principal, videotapes may be used for disciplinary purposes.

Acceptable Use Policy

TA offers a computer network with internet access and email services for teachers and staff within the school system. Email access for students may be provided at a later date but it is not currently being offered. Use of technological resources should be integrated into the educational programming and should be used to teach the North Carolina Standard Course of Study in meeting the educational goals of the Thomas Academy Board of Directors. Teachers are encouraged to further incorporate the use of technology resources into their lesson plans.

Federal Online Protection Act requirements are designed to ensure that websites protect the information and personal safety of children. As a result, many valuable instructional resources require that children, especially under the age of 13, have parental permission prior to using these sites. Monitoring the use and teaching students about online safety is best done through

practice. It is recommended that teachers communicate with parents/guardians/TPs prior to assigning students to use these resources. Parents/Guardians/TPs have the right to refuse the use of any such resource.

The principal shall ensure that school system computers with internet access comply with federal requirements regarding filtering software, internet monitoring, and internet safety policies. The principal shall develop any regulations and will submit any certifications necessary to meet such requirements.

Expectations of Users

The Thomas Academy area computer network and other technological resources are intended for support and delivery of the TA instructional program. Users of the school's system network and technological resources will report any misuse of such resources to the teacher and/or principal. Misuse of electronic information resources can be a violation of local, state and federal laws and users of the Thomas Academy technological resources can be prosecuted for violating those laws. All the rules of conduct described elsewhere in the policies, procedures, and expectations of TA will apply while using the network and other technological resources.

Privileges - Students

All students registered in TA will automatically be given access to the system's internet. Parents have the option of denying their child's access to the internet.

At the beginning of each school year, students and parents/guardians/TP's of students under the age of 18 shall be notified in writing of this policy and that the student will be granted access to the internet unless they object in writing. **Failure to object to the child's access shall be deemed parental consent for internet access and consent to the school system monitoring the student's use.**

To exercise the right to object, the Parent/Guardian/TP must complete the *Parental Request to Deny Access to the Internet*, available from the principal, and return it to Thomas Academy. Thomas Academy may supplement any provision of this policy with additional requirements consistent with this policy, and may require Parent/Guardian/TP releases and approvals.

Employees are expected to comply with the requirements of this policy and all other relevant board policies when accessing technological resources.

Restricted Material

The Board is aware that there is information on the internet that is not related to the educational program. The Board is also aware that the internet may provide information and opportunities to communicate on subjects that are not suitable for school-age children and that many parents would find objectionable. School system personnel shall take reasonable precautions to prevent students from having access to inappropriate materials, such as violence, nudity, obscenity, or graphic language which does not serve a legitimate pedagogical purpose. The principal shall ensure that the internet service provider or technology personnel have a technology protection

measure that blocks or filters internet access to audio or visual depictions that are obscene, that are considered child pornography, or that are harmful to minors. School officials may disable such filters for an adult who uses a school-owned computer for bona fide research or other lawful educational purposes. School system personnel may not restrict internet access to ideas, perspectives, or viewpoints if the restriction is motivated by disapproval of the idea involved.

Faculty and Staff Network Etiquette

Users are expected to abide by generally accepted rules of network etiquette. These rules include, but are not limited to, the following:

- A. Be polite, professional, and respectful in all communications with others when using the TA network;
- B. Be conscientious of your use of school system network resources to help conserve resources such as bandwidth and to minimize disruptions on the TA network;
- C. Brevity is preferred;
- D. Minimize spelling errors and proofread email messages;
- E. Use accurate and descriptive titles for your email messages;
- F. Remember that humor and satire can often be misinterpreted;
- G. Reduce the number of email messages by using the same message for multiple addresses if that is appropriate;
- H. In addition, school personnel shall not disclose on the internet or on school system websites/pages any personally identifiable information concerning students (including name, address, or pictures) without the permission of a parent/guardian or an eligible student, except as otherwise permitted by the Family Educational Rights and Privacy Act (FERPA), Student Records. Users also may not use the email system as a forum to broadcast political or religious opinion, lobby for support, or advertise services or products not approved by the administration; and
- I. Refrain from typing messages in all uppercase because the reader may interpret it as shouting

Privacy

TA's technological resources are primarily provided for school related purposes only. No right of privacy exists in the use of technological resources, including any communication through the network or internet or while using any school system electronic information resource. School system administrators or individuals designated by the principal may review files, monitor all communications, intercept email messages and search data or email on school system owned or leased computers, servers, or other electronic information resources at any time to maintain system integrity and to ensure compliance with Board policy and applicable laws and regulations. School system personnel shall make reasonable attempts to monitor online activities of minors who access the internet via a school owned computer or electronic device while on the school campus.

Requirements for Use of the Internet

The use of TA technological resources, such as the network, email system, and internet, is a privilege not a right. The network system administrator and/or principal will decide what is

appropriate use in accordance with this policy. The administration, staff, or faculty of TA may request that a student's privilege to internet access be revoked or denied.

Any user of TA network, email system, internet, or other technological resources, including staff and students, must comply with the following requirements:

Students must meet all standards of expected student behavior and comply with all Board policies, administrative rules, and school standards and rules when using technological resources.

- A. No user of technological resources, including a person sending or receiving electronic communications, may engage in creating, intentionally accessing, graphics (including still or moving pictures), sound files, text files, messages, or other material that is obscene, defamatory, pornographic, lewd, vulgar, sexually explicit, harassing, or considered to be harmful to minors.
- B. All applicable laws and Board policies apply, including those relating to copyrights/trademark, confidential information, and public records. Any use that violates state or federal laws is strictly prohibited. Under no circumstances may software purchased by TA be copied for personal use.
- C. Users must respect the privacy of others. When using blogs or other forms of electronic communication, students must not reveal personally identifiable, private, or confidential information, such as home addresses or telephone numbers, or may not forward or post personal communications without the author's prior consent.
- D. Users of the school computer system or internet access are prohibited from using the computer network to gain or attempt to gain unauthorized or unlawful access to other computers or computer systems, including entry in an administrative and/or unauthorized LAN, WAN, or server, or otherwise engaging in unauthorized or unlawful activities such as "hacking", port sniffing, or using other programs, tools, or utilities against the network or internet/intranet resource.
- E. If a user identifies a security problem on the internet or with other technological resources, he/she must immediately notify a system administrator, teacher, or principal. Users shall not demonstrate the problem to other users. Any user identified as a security risk shall be denied access.
- F. Users are prohibited from using another individual's computer account or files **without prior written permission from the individual**, including through use of an ID and/or password not assigned to the user. Users may not read, alter, change, execute, or delete files belonging to another user without the owner's express permission.
- G. Users shall not intentionally waste or abuse limited resources, such as through distribution or mass email messages (e.g., chain mail, spamming, solicitations), creation of and/or participation in unauthorized news groups, or unauthorized storage of files on the server.
- H. Teachers shall make reasonable efforts to supervise a student's use of the internet during instructional times.
- I. Use of the internet for commercial gain or profit is not allowed from an educational site.
- J. Views may be expressed as representing the views of TA and/or BGH only with prior approval from the principal or his/her designee.

- K. Users of technological resources may not send electronic communications fraudulently (i.e., by misrepresenting the identity of the sender).
- L. Users may not intentionally or negligently damage computers, computer systems, electronic devices, and software or computer networks. Users may not knowingly or negligently transmit computer viruses or self-replicating messages or deliberately try to degrade or disrupt system performance. Users must scan any downloaded files for viruses.
- M. Users may not create or introduce games, network communications programs or any foreign program or software onto any school system computer, electronic device, or network without the express permission of the principal or designee.

Personal Websites

The principal may use any means available to request the removal of personal websites that substantially disrupt the school environment or utilize TA or BGH name, logo, or trademark without permission.

A. Students

Though school personnel do not monitor students' internet activity conducted on non-school system computers during non-school hours, when the student's online behavior has a direct and immediate effect on school safety or maintaining order and discipline in the schools, the student may be disciplined in accordance with Thomas Academy Board policies.

B. Employees

All employees must use the school system network when communicating with students about any school-related matters; thus, employees may not use personal websites or online networking profiles to post information in an attempt to communicate with students about school related matters.

Employees are to maintain an appropriate relationship with students at all times.

Employees are encouraged to block students from viewing personal information on employee personal websites or online networking profiles in order to prevent the possibility that students could view materials that are not age-appropriate. If an employee creates and/or posts inappropriate content on a website or profile and it has a negative impact on the employee's ability to perform his/her job as it relates to working with students, the employee will be subject to discipline up to and including dismissal.

This section applies to all employees, volunteers, and student teachers working in the school system.

No Warranties of Service

TA makes no warranties of any kind, whether expressed or implied, for the service it is providing. TA will not be responsible for any damages that users suffer. This includes loss of data resulting from delays, no deliveries, mis-deliveries, or service interruptions caused by the school system's own negligence or the users' errors or omissions. Use of any information obtained via the information system is at the risk of the user. TA specifically denies and disclaims any responsibility for the accuracy or quality or type of information obtained through its services.

Consequences for Violations of Acceptable Use Policy

This policy is applicable to all users of TA computers and refers to all electronic information or other technological resources whether individually controlled, shared, stand alone, or networked. Disciplinary action, if any, for staff, students, or other users shall be consistent with the Thomas Academy Board policies and practices, including the Student Code of Conduct. Violations may constitute cause for revocation of access privileges, suspension of access to TA system computers, other disciplinary action, dismissal, or appropriate legal action. Specific disciplinary actions will be determined on a case by case basis.

Grievance Policy

Procedure for appeals:

In the event that a parent/guardian/TP is dissatisfied with the principal's decision, the Parent/Guardian may request a meeting with the principal to review the decision. During the meeting, a written report of the incident will be reviewed and every effort will be made to resolve the misunderstandings in the best interests of the student. If further review is needed, the parent/guardian/TP may request a meeting with the Thomas Academy Board of Directors to review the decision.

The Family Educational Rights and Privacy Act (FERPA)

The federal law FERPA (20 U.S.C. § 1232g) and State Law affords parents and students who are 18 years of age or older ("eligible student") certain rights with respect to the student's education record. These rights include

A. Protection of Pupil Rights Amendment

The Protection of Pupil Rights Amendment (20 U.S.C. § 1232h) affords parents certain rights regarding the administration of surveys, collection, and use of information for marketing purposes, and certain physical exams. These rights transfer from the parent to a student who is 18 years old or to an emancipated minor under state law. These include the right to:

1. Consent before students submit a survey that concerns one or more of the following protected areas ("protected information survey") if the survey is funded in whole or in part by a program of the United States Department of Education. These areas are:
 - a. Political affiliations or beliefs of the student or of the student's parent/guardian.
 - b. Mental or psychological problems of the student or the student's family.
 - c. Sexual behavior or attitudes.
 - d. Illegal, anti-social, self-incriminating, or demeaning behavior.
 - e. Critical appraisals of other individuals with whom respondents have close family relationships.
 - f. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

- g. Religious practices, affiliations, or beliefs of the student or of the student's parent/guardian.
 - h. Income, other than as required by law to determine program eligibility.
2. Receive notice and an opportunity for a student to opt out of:
 - a. Any other protected information, survey, regardless of funding.
 - b. Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health or safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State Law.
 - c. Activities involving the collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others. (This does not apply to the collections, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions.)
 3. Inspect upon request and before the administration or use:
 - a. Protected information surveys of students and surveys created by third parties.
 - b. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes.
 - c. Instructional material used as part of the educational curriculum.

B. Confidentiality

The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

Prior consent for disclosure of a student record is not required, if the disclosure is to:

1. School officials with legitimate educational interests. A "school official" is defined as an individual employed by, or a person or company contracted by the school system who has a legitimate educational interest in a student record in order to fulfill professional or job responsibilities, as determined by the Thomas Academy. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill a professional responsibility.
2. Upon request, TA will disclose, without consent, a student's education record to another school or school system in which the student seeks or intends to enroll.
3. To comply with a judicial court order of lawfully issued subpoena if TA makes a reasonable attempt to notify the parent or eligible student in advance of compliance.
4. To the court when TA initiates legal action against the parent or student and a reasonable effort to notify the parent or eligible student has been provided.
5. To appropriate parties in a health or safety emergency.

6. To the Secretary of Agriculture or authorized representatives of the food and nutrition service for purposes of conducting program monitoring, evaluations and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act of the Child Nutrition Act of 1966, under certain conditions.
7. As otherwise permitted by federal and state law and regulations.

C. Directory Information

FERPA requires that TA, with certain exceptions, obtain a parent's or eligible student's written consent prior to the disclosure of personally identifiable information from a student's education record; however, TA may disclose designated "directory information" without written consent, unless the parent or eligible student has advised TA to the contrary. Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without the parent's or eligible student's prior written consent.

The following information has been designated by TA as "directory information" and can be released without parental consent: student's first and last name, dates of school attendance, grade level, school enrollment status, most recent school attended, major field of study, participation in official activities and sports, weight and height of athletic team participants, degrees and awards received, and photographic, video, or electronic images.

Parents or eligible students may opt out of having TA release their child's of their directory information in the following ways: in school publications, in school communications, to outside news media organizations, and to third parties other than news media organizations.

In order to refuse/decline the release of directory information, the parent or eligible student may complete the **Student Privacy Options** form (see page 28) and submit it to the principal within 30 days of the student's enrollment in school. If the parent or eligible student wishes to change the privacy options, another **Student Privacy Options** form must be completed and submitted to the school principal.

Privacy Options Other than Directory Information

TA also affords parents and eligible students the right to opt out of certain activities by completing the **Student Privacy Options** form and submitting it to the principal.

Military Recruiters and Instructions of Higher Education

Federal law requires TA to provide, on a request made by a military recruiter or institution of higher education, access to a secondary school student's name, address, and telephone number, unless the parent or eligible student has notified the principal in writing that this information is not to be disclosed. State law also requires TA to provide the same information to official recruiting representatives of military forces in order to inform students of educational and career opportunities available in the military. Parents and eligible students may request that the students' name, address, telephone number not be disclosed to military recruiters and institutions of higher education by submitting the **Student Privacy Options** from the principal.

D. Student Intellectual Property

TA may publish and/or display a student's intellectual property and/or student created publications and productions created during school sponsored activities and/or learning experiences. Student created works may be displayed in school, at school sponsored events, or used in TA publications or communications through digital and print media including: school newsletters, yearbooks/memory books, brochures, websites, and other approved digital sites, i.e., the News Reporter, Bladen Online, etc. Parents or eligible students may request that the student's intellectual property and publications/productions not be displayed by completing the **Student Privacy Options** form and submitting it to the principal.

TA will assume that the parents have not opted out of the disclosure of their student's information, unless they have completed and submitted the **Student Privacy Options** form to the principal no later than 30 days after the student's enrollment in TA. The same rule applies to eligible students also.

Right to Inspect and Review

Eligible students have the right to inspect and review their education record within 45 days of the school receiving a request. Parents who wish to inspect their student's education records should submit a written request to the principal or designated school official will make arrangements for access and notify the parent or eligible student of the time and place where the student's record may be inspected.

Rights to Amend a Student's Record

Parents and eligible students have the right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA. Parents or eligible students who wish to ask the school to amend the education records should write to the principal clearly identifying the part of the record they want changed and should specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

Right to File a Complaint

The parent or eligible student has the right to file a complaint with the U.S. Department of Education concerning alleged failures by TA to comply with the requirements of FERPA. The name and Address of the office that administers FERPA are:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5327
Phone: 1-800-USA-LEARN (1-800-872-5327)



Thomas Academy Charter School Student Privacy Options

Student Information		
Student's Full Name (Please Print):		
School Name:	Grade:	School Year:
Complete and return your child's Student Privacy Options Only if you are <i>Opting Out</i> of the disclosure of any of the information listed below		
Directory Information Opt-Out		
<p>The Family Educational Rights and Privacy Act (FERPA) and state regulation permit Thomas Academy to disclose designated "directory information" without a parent's written consent, unless you have notified Thomas Academy to the contrary. As defined by FERPA, directory information is personally identifiable information that would not generally be considered harmful or an invasion of privacy if disclosed. Thomas Academy designates the following student information as directory information:</p> <ul style="list-style-type: none"> ● Student first name and last name. ● Dates of school attendance. ● Grade level. ● School enrollment status. ● Most recent school attended. ● Major field of study. ● Participation in official activities and sports ● Weight and height of athletic team participants. ● Degrees and awards received. ● Photographic, video, or electronic images. 		
Parents/Guardians may opt out of having Thomas Academy disclose their child's directory information in the following ways:		
<ul style="list-style-type: none"> ● In School Publications (disclosure of directory information in school publications, such as school newsletter, yearbook/memory book, graduation program, theater playbill, athletic team roster, displays, brochures and other school publications.) ● In Thomas Academy Publications (disclosure of directory information in school system publications, such as the Thomas Academy school information calendar, student handbook, meeting handouts/PowerPoint presentations, annual budget book and other Thomas Academy publications.) ● In Thomas Academy School Communications (disclosure of directory information in systemwide and school communications, such as Thomas Academy website, Thomas Academy social media and other Thomas Academy and school communications.) ● To Outside News Media Organizations (disclosure of directory information, upon request, to news media organizations outside of Thomas Academy, such as local and national TV and radio stations, newspapers, or magazines.) ● To a Third Party Other Than News Media Organization (disclosure of directory information, upon request, to a third party, such as a community or parent organization or other third party apps.) 		
<p>Parents may choose NOT to allow Thomas Academy to disclose their student's directory information. To OPT OUT of Thomas Academy disclosing your child's directory information, please place a checkmark (✓) in the appropriate box or boxes below.</p>		
<input type="checkbox"/> Opt out of disclosure in school publications <input type="checkbox"/> Opt out of disclosure in Thomas Academy publications <input type="checkbox"/> Opt out of disclosure in Thomas Academy school communications <input type="checkbox"/> Opt out of disclosure to outside news media organizations <input type="checkbox"/> Opt out of disclosure to a third party other than news media organizations		
Privacy Options Other Than Directory Information		
Military Recruiters/Institutions of Higher Education Opt-Out (Secondary Students Only)		
<input type="checkbox"/> Opt Out of disclosing my child's name, address, and phone number to military recruiters <input type="checkbox"/> Opt Out of disclosing my child's name, address, and phone number to institutions of higher education		
Photography/Filming By Outside News Media Organizations Opt-out		
<input type="checkbox"/> Opt Out of allowing members of outside news media organizations to photograph or film my child during the school day in relation to a story about Thomas Academy school/students		
Student Intellectual Property Opt-Out		
<input type="checkbox"/> Opt Out of Thomas Academy publishing and/or displaying my child's intellectual property and/or student-created publications. A student's intellectual property is published/displayed with your child's first and last names or with a group name, school, and grade		
Directory Information		
<p>The Family Educational Rights and Privacy Act (FERPA), a federal law, permits the disclosure of directory information from a student's education record without the parent's prior written consent unless the parent has opted out of such disclosure. (To Opt Out means that a parent/eligible student does not permit Thomas Academy to disclose a student's directory information.) Please note that, in certain situations, federal and state laws and regulations may permit or require the disclosure of the information from a student record to authorized persons or entities even</p>		

<p>if you have opted out of its disclosure as directory information.</p> <p>Opt Out of Publishing Directory Information</p> <p>Parents may opt out of having Thomas Academy disclose their student's directory information in the following ways:</p> <ul style="list-style-type: none"> In School Publications - <p>These Publications include: (1) lists of students participating in officially recognized activities and sports, which may include playbills, programs, or rosters; (2) lists of students receiving honors, awards, and scholarships; (3) athletic team rosters, which may include a team members name, height, and weight; (4) lists of students with degrees conferred and awards received; (5) school newsletters, yearbooks/memory books; (6) school/classroom displays; (7) school brochures; or (8) other means. A parent may request that Thomas Academy not disclose the directory information of their child on school publications by checking the "opt out of disclosure in school publications" box on page 1. (If you opt out of school publications, your child's photo and directory information will not be published in the school's yearbook/memory book.)</p> <ul style="list-style-type: none"> In Thomas Academy Publications - <p>These publications include: (1) school information calendar; (2) student handbook; (3) meeting/conference handouts/programs; (4) brochures; (5) annual budget; and (6) other means. A parent may request that Thomas Academy not disclose the directory information of their child in Thomas Academy publications by checking the "opt out of disclosure in Thomas Academy publications." on page 1.</p> <ul style="list-style-type: none"> In Thomas Academy Communications - <p>These communications include: (1) Thomas Academy school website; (2) Thomas Academy social media (e.g. Facebook); and (3) other school communications. A parent may request that Thomas Academy not disclose the directory information of their child in communications by checking the "opt out of disclosure in Thomas Academy communications" box on page 1.</p> <ul style="list-style-type: none"> To Outside News Media Organizations - <p>There are times when Thomas Academy may send a story of interest regarding the school to various media. These news media organizations include local and national TV and radio stations, newspapers, or magazines. A parent may request that Thomas Academy not disclose the directory information of their child to the media by checking the "opt out of disclosure to outside news media organizations" box on page 1.</p> <ul style="list-style-type: none"> To a Third Party Other Than News Media - <p>Directory information may be provided to individuals and organizations outside of Thomas Academy (e.g. PTA's and booster organizations, state, and county agencies, and other third parties.) A parent may request that Thomas Academy not disclose the directory information of their child to a third party by checking the "opt out of disclosure to a third party other than news media" box on page 1.</p> <p>NOTE: The Student Privacy Options on page 1 do not include videotaping by security cameras in school or on school buses or for pictures used for student ID cards or badges, nor do the privacy preferences apply to school activities or events that are open to the public.</p>	
<p>Military Recruiters and/or Institutions of Higher Education (Secondary Students Only)</p> <p>Federal law requires Thomas Academy to provide, on a request made by a military recruiter or institution of higher education, access to the name, address, and telephone listing of each secondary school student, unless the parent has notified the school principal in writing that this information not be disclosed. State Law also requires Thomas Academy to provide the same information to official recruiting representatives of the military forces of this state and the United States in order to inform students of educational and career opportunities available in the military. Parents must request that their child's name, address, and telephone listing not be disclosed to military recruiters and institutions of higher education by checking the appropriate opt out box(es) on page 1.</p>	
<p>Photography/Filming by Outside News Media Organizations Opt-Out</p> <p>There are times when Thomas Academy may be featured in various media. News reporters, photographers, and/or film crews from TV, radio stations, newspapers, or magazines may wish to photograph or film your child during the school day in relation to a story about our school's students. A parent may request that the media not photograph or film their child by checking the "outside news media opt-out" box on page 1.</p>	
<p>Student Intellectual Property Opt-Out</p> <p>Thomas Academy may publish and/or display a student's intellectual property and/or a student's publications/productions created during school-sponsored activities and/or learning experiences. Student-created works may be displayed in schools, at school-sponsored events, or used in Thomas Academy publications or communications through digital and print media, including: school newsletters, yearbooks/memory books, Thomas Academy school website, social media sites, brochures, or other means. Intellectual property includes, but is not limited to: (1) Patentable and potentially patentable works (processes, machines, manufactures, or compositions of material, such as text (manuscripts, books, and articles); videos and motion pictures; music (sound recordings, lyrics, and scores); images (print, photographs, and art); and computer software (programs, databases, and websites). A parent may request that their child's intellectual property and publications/productions not be published or displayed by any means by checking the opt-out box on page 1. <i>(If you opt out, your child's intellectual property will not be displayed in the school or by any other means.)</i></p> <p>NOTE: A student's work will appear with the student's first and last names or with a group name, school, and grade.</p>	
<p>If you have checked any of the opt-out boxes on page 1, you must sign and return your Student Privacy Options to Thomas Academy. Thomas Academy will assume that you have not opted out of the disclosure of your child's information, unless you submit your Student Privacy Options no later than October 1st or within 30 days of enrollment in Thomas Academy</p>	
<p>Parent/Eligible Student (18 years or older) Signature</p>	
<p>Parent/Eligible Student Name (print):</p>	<p>Date:</p>
<p>Parent/Eligible Student Signature:</p>	
<p>NOTE: The opt-out preferences noted on Page 1 are for the <u>current school year only</u>. If you wish to make changes to your Student Privacy Options, you must submit new privacy options to your child's school. ***Please discuss your opt-out preferences with your child***</p>	

Grading Policy

TA strives to have clear expectations for students. The school year is divided into 2 semesters which are 19 and 20 weeks each in length. Additionally a summer school or extended school session may be offered for credit recovery, remediation, or attendance makeup days.

Each teacher is required to post/provide the following information:

- Class Expectations
- Course Outline
- Grading Policy
- Homework Policy

Grading requirements are set up at the discretion of the teacher, e.g., tests: 40%, quizzes: 30%, projects: 20%, and homework/participation: 10%.

The teachers will use the following grading scale based on North Carolina regulations.

- A - 90 - 100
- B - 80 - 89
- C - 70 - 79
- D - 60 - 69

Any student who earns a grade below a **C** will be expected to redo the assignment or test, as many times as needed, so that the student reaches mastery on the skills being taught. Students are given assistance as needed. The staff strives to help students understand that “just getting by” doesn’t set them up for the best future they can have. Hard work breeds success. Fortunately, the school has a staff that will guide students and support them as much as needed; however, students must do their part to complete these assignments because no one can **DO** the work **FOR** the student. It would hinder their success in education to simply pass them on without having mastered the concepts. For this, the staff needs the support of the students **AND** the Parents/Guardians/TPs to make certain that all are doing their part. It truly takes a “village” and TA is grateful that parents and students are part of this village.

Students must maintain an overall grade of C average or better in all academic work to be eligible to participate in any extra-curricular activities including sports.

GRADUATION REQUIREMENTS FOR HIGH SCHOOL STUDENTS

- For students who entered 9th grade in 2021 - 2022 or later: **22 credits total**
 - English - 4 credits
 - English I
 - English II
 - English III
 - English IV
 - Mathematics - 4 credits
 - Math I
 - Math II
 - Math III

- Math IV
 - 1 math course aligned with the student's post-secondary plans (Usually Math IV)
- Science - 3 credits
 - Biology
 - Physical Science
 - Earth/Environmental Science
- Social Studies - 4 credits
 - Founding Principles of US and NC Civic Literacy
 - Economic and Personal Finance
 - American History
 - World History
- Health and Physical Education - 1 credit
- Electives - 7 credits including one of the following areas
 - Fine Arts
 - World Language

CPR certification is required of all NC graduates.

NOTE: Acceptance in any UNC System University requires 2 credits of the same foreign language and a fourth science credit in addition to all of the requirements listed above.

NC mandatory Standardized Tests:

- 6th Grade End of Grade Tests - Reading, Math
- 7th Grade End of Grade Tests - Reading, Math
- 8th Grade End of Grade Tests - Reading, Math, Science
- Math I and Math III End of Course Tests
- Biology End of Course Test
- English II End of Course Test
- Pre ACT - 10th Grade
- ACT - 11th Grade

Student Handbook Acknowledgement Page

Please Print Clearly.

Student's Last Name:	Student's First Name:
1st Period Teacher:	Grade:

The success of our school is dependent upon our stakeholder groups being informed at all levels and working together to achieve shared school goals. Students represent our most significant stakeholder group. As such, keeping students informed about policies, rules, procedures, and behavioral expectations is the main purpose of this student handbook.

I have received a copy of the Thomas Academy Student Handbook. The handbook was explained, and I was given an opportunity to ask questions. I was informed that I may meet with my principal to discuss the handbook in more detail. With my signature, I am indicating my full understanding of the policies and procedures outlined in the student handbook.

Student's Signature

Date

I have discussed the Thomas Academy Handbook 2024 - 2025 with my child, and we are aware of the policies, procedures, and expectations outlined in this handbook. We understand that this handbook will be posted online and may be updated at any time with new and/or revised policies and procedures. It is our responsibility to periodically review the online handbook for such changes.

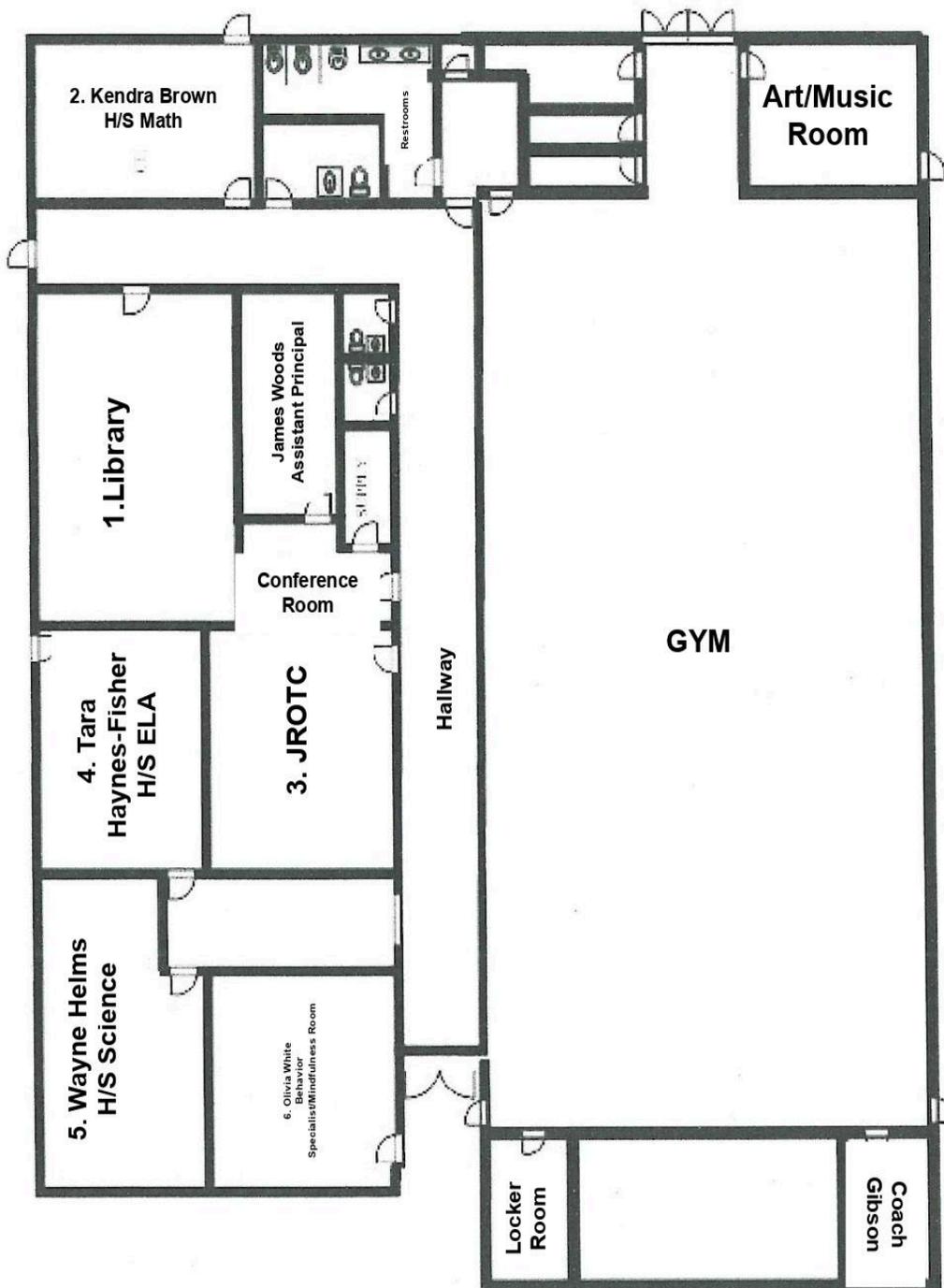
Parent/Guardian/TP Signature

Date

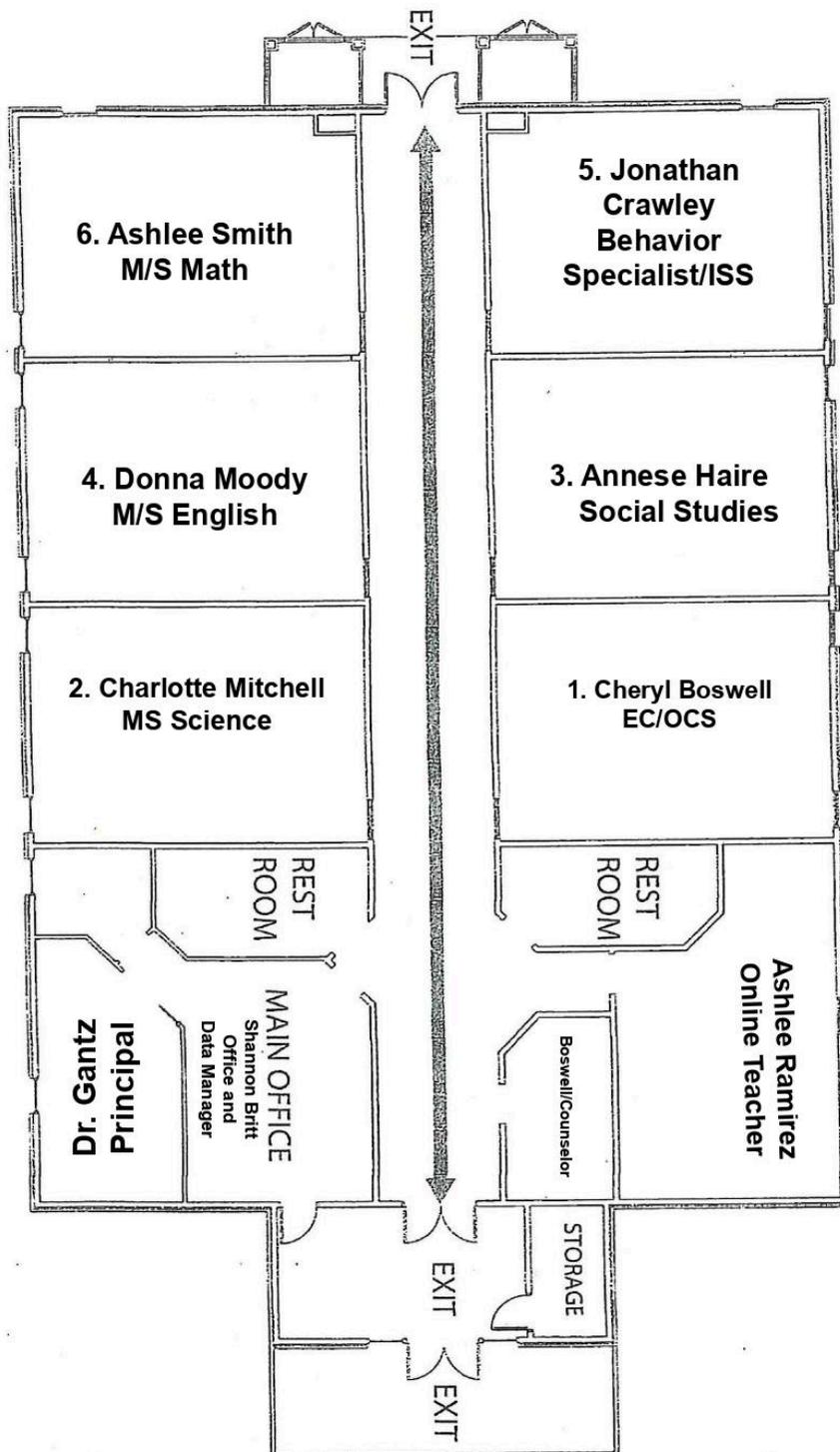
This signed form is valid until August 1st, 2025, or until it is replaced by a new form of acknowledgement.

Thomas Academy 2024-2025 Draft 1																				
July 2024							Dates							January 2025						
S	M	T	W	T	F	S	7/29-8/9	Teacher Workdays - No School					S	M	T	W	T	F	S	
	1	2	3	4	5	6	8/8	Open House / Peek-At-Schedule								1	2	3	4	
7	8	9	10	11	12	13	8/12	First Day of School (Full Day)					5	6	7	8	9	10	11	
14	15	16	17	18	19	20	9/2	Labor Day					12	13	14	15	16	17	18	
21	22	23	24	25	26	27	9/11	Parent Conferences					19	20	21	22	23	24	25	
28	29	30	31					Columbus Day Observation					26	27	28	29	30	31		
							10/14	Workday												
							11/11	Veterans Day Observance												
							11/26- 11/29	Thanksgiving Break												
August 2024							12/20 - 1/3	Winter Break					February 2025							
S	M	T	W	T	F	S	1/6	Teacher Workday - No School					S	M	T	W	T	F	S	
				1	2	3	1/20	MLK Holiday											1	
4	5	6	7	8	9	10	2/12	Parent Conferences					2	3	4	5	6	7	8	
11	12	13	14	15	16	17	2/17	President's Day					9	10	11	12	13	14	15	
18	19	20	21	22	23	24							16	17	18	19	20	21	22	
25	26	27	28	29	30	31	4/17	Prom / Early Release					23	24	25	26	27	28		
							4/18	Good Friday												
							4/21 - 4/25	Spring Break												
September 2024							5/26	Memorial Holiday					March 2025							
S	M	T	W	T	F	S	5/29	Last Day of School (Early Release)					S	M	T	W	T	F	S	
1	2	3	4	5	6	7	5/30	Teacher Workday											1	
8	9	10	11	12	13	14	5/31	Graduation					2	3	4	5	6	7	8	
15	16	17	18	19	20	21	5/30 - 6/5	Teacher Workdays					9	10	11	12	13	14	15	
22	23	24	25	26	27	28		Regular Full School Days					16	17	18	19	20	21	22	
29	30							Early Release Days (12:00 PM)					23	24	25	26	27	28	29	
								Teacher Workdays					30	31						
								Holiday/Non-School Days												
								Graduation Day!												
October 2024							Grading Periods / Report Card Dates							April 2025						
S	M	T	W	T	F	S		1st Quarter Progress Reports Due					S	M	T	W	T	F	S	
		1	2	3	4	5		End of 1st Grading Period							1	2	3	4	5	
6	7	8	9	10	11	12		Report Cards 1st Quarter					6	7	8	9	10	11	12	
13	14	15	16	17	18	19		2nd Quarter Progress Reports Due					13	14	15	16	17	18	19	
20	21	22	23	24	25	26		First Semester Ends					20	21	22	23	24	25	26	
27	28	29	30	31				Report Cards 2nd Quarter					27	28	29	30				
								3rd Quarter Progress Reports Due												
								End of 3rd Grading Period												
November 2024								Report Cards 3rd Quarter					May 2025							
S	M	T	W	T	F	S		4th Quarter Progress Reports Due					S	M	T	W	T	F	S	
					1	2		End of 4th Quarter Grading Period									1	2	3	
3	4	5	6	7	8	9		Report Cards 4th Quarter					4	5	6	7	8	9	10	
10	11	12	13	14	15	16							11	12	13	14	15	16	17	
17	18	19	20	21	22	23							18	19	20	21	22	23	24	
24	25	26	27	28	29	30							25	26	27	28	29	30	31	
								Legislative Requirement: Schools must have either a minimum of 185 instructional days or 1,025 hours of instruction covering at least nine calendar months.												
December 2024								Thomas Academy's school calendar has ___ instructional days with 1,0___ instructional hours, covering ten calendar months.					June 2025							
S	M	T	W	T	F	S		Semester 1 consists of ___ instructional days with ___ instructional hours. Semester 2 consists of ___ instructional days with ___ instructional hours.					S	M	T	W	T	F	S	
1	2	3	4	5	6	7		In the event of a closure due to inclement weather or pandemic, the school will continue to facilitate learning through various online/remote platforms.					1	2	3	4	5	6	7	
8	9	10	11	12	13	14							8	9	10	11	12	13	14	
15	16	17	18	19	20	21							15	16	17	18	19	20	21	
22	23	24	25	26	27	28							22	23	24	25	26	27	28	
29	30	31											29	30						

High School



Middle School



Appendices

Appendix A.....	Thomas Academy College and Career Promise Policy
Appendix B.....	Head Lice (Pediculosis) Policy
Appendix C.....	Medication Policy
Appendix D.....	School Uniform/Dress Code Policy
Appendix E.....	Attendance
Appendix F.....	Parental Rights and Responsibilities in Special Education Notice of Procedural Safeguards

Thomas Academy College and Career Promise

Eligibility and Drop Policy

Effective August 2022

Career and College Promise

The Career and College Promise program is designed to offer qualified high school students structured dual enrollment opportunities that provide both entry-level job skills as well as pathways leading to a certificate, diploma, or degree.

The board, in collaboration with local community colleges, may provide for dual enrollment of a qualified high school student in community college courses through (1) a Career and Technical Education Pathway leading to a job credential, certificate, or diploma aligned with one or more high school Career Clusters or (2) a College Transfer Pathway leading to college transfer credits.

The board may also partner with institutions of higher education to establish cooperative innovative high school programs that enable a student to concurrently obtain a high school diploma and (1) begin or complete an associate degree program, (2) master a certificate or vocational program, or (3) earn up to two years of college credits within five years. Students are eligible for these programs beginning in eleventh grade.

The superintendent shall develop procedures consistent with this policy, state law, and State Board policies.

I. Enrollment in Career and College Promise

Career and College Promise is the result of a partnership between the North Carolina State Board of Education, the North Carolina Community College System, the University of North Carolina system, and many of North Carolina's independent colleges and universities. Rules governing Career and College Promise are established by those entities. This regulation provides general information about Career and College Promise. For more specific information, students and parents should consult the prospective community college and/or the student's school counselor.

A. Career and College Promise Description

Career and College Promise provides structured opportunities for eligible high school students to dually enroll in community college courses and earn college credit and free tuition while still in high school. Academic credits earned through Career and College Promise enable students to accelerate the completion of a postsecondary credential,

such as a certificate, diploma, or degree that leads to college transfer or provides entry-level job skills. Students may choose from the following types of options or “pathways”: College Transfer Pathways leading to a minimum of 30 hours of college transfer credit; Career Technical Education Pathways leading to a job credential, certificate, or diploma; or the Cooperative Innovative High School Pathway, which enables a student to begin earning tuition-free college credits as a high school freshman.

B. College Transfer Pathways

1. Description

The Career and College Promise College Transfer Pathways are designed for students who wish to begin earning credit towards a two-year associate degree and a four-year baccalaureate degree. These pathways are a structured set of general education courses designed to, upon successful completion, transfer to any North Carolina public university or participating private college or university. The College Transfer Pathway (for students who wish to begin study toward the Associate in Arts degree and a baccalaureate degree in a non-STEM major) or the Associate in Science College Transfer Pathway (for students who wish to begin study towards the Associate in Science degree and a baccalaureate degree in a STEM or technical major).

2. Eligibility

To be eligible for initial enrollment in a College Transfer Pathway, the student must:

- Be a high school junior or senior,
- Have a weighted 3.0 grade point average on high school courses, or
- Demonstrate college readiness in English/writing, reading, and mathematics on an approved assessment or placement test.

To remain Eligible for continued enrollment in a College Transfer Pathway, a student must:

- Maintain a 2.0 or higher grade point average on college coursework after completing two courses, and
Be progressing toward high school graduation, as determined by the student’s principal.
- A student who falls below a 2.0 grade point average is subject to the community college’s policy for satisfactory academic progress.

Students participating in a College Transfer Pathway must meet college pre-requisite requirements established by the community college and comply with any other rules or requirements of the community college applicable to students participating in Career and College Promise.

C. Career Technical Education Pathways

1. For Juniors and Seniors

The Career Technical Education Pathway for high school juniors and seniors leads to a certificate or diploma aligned with a high school career cluster.

To be eligible for initial enrollment in a Career Technical Education Pathway, a high school junior or senior must meet the following criteria:

- Have a weighted 3.0 grade point average OR be recommended by the principal or designee; and
- Meet the course prerequisites for the career pathway if applicable

To remain eligible for continued enrollment in the Career Technical Education Pathway, the student must:

- Maintain a 2.0 or higher grade point average on college coursework after completing two courses, and
- Be progressing toward high school graduation, as determined by the student's principal

A student who falls below a 2.0 grade point average after completing two college courses will be subject to the community college's policy for satisfactory academic progress

II. Calculation of Grade Point Average

The grades for any course approved for high school credit will be calculated into the students grade point average in accordance with State Board of Education Policy GCS-L-004.

III. Cost for CCP

The state of North Carolina pays the tuition costs for all eligible CCP students. Thomas Academy will pay the registration fees (currently \$31 per registered student). The cost of required books and codes will be the responsibility of the student and parent/guardians. SCC also partners with Thomas Academy and provides free hot posts for CCP students who lack internet access at their home.

IV. Withdrawal From an SCC Course

Students who wish to withdraw from an SCC course must do so in writing before the college drop period. The student will earn a W on their SCC transcript. Students can withdraw from their SCC course before day 10 without affecting their high school transcript. Students who drop a course(s) will be on a probationary period for 1 semester and will not be allowed to enroll in CCP courses for the following semester.

Students are allowed one semester grace period of dropping a class. In the first semester a student drops an SCC course, they will receive a WF on their high school transcript. A WF-Withdrawn Failing does not count in GPA students receive no GPA points and no graduation credit. In any other semester following their first SCC class dropped, students will receive a 59 on their transcript for any SCC course dropped. A grade of 59 will count as a failing grade and will negatively impact their GPA. The student will not receive course credit for a grade of 59.

Ta Board approved on 05/10/2022

Head Lice (Pediculosis) Policy

- If a student is noted with or assumed to have lice and/or nits, the student is to be evaluated by the school nurse along with siblings who attend the school and other close associates at the school
- If the student is noted with lice and/or nits at school, all attempts to reach parent/guardian will be made for the student to be picked up from school.
- If parent/guardian contact cannot be made, the student may remain in school. The student should avoid head to head contact with other students and avoid sharing any headgear or head items.
- Parents/guardians can purchase treatment products from a pharmacy or store. The pharmacist can recommend a specific type. It is appropriate to purchase treatment for lice and nits.
- On the next school day, the student is to return to school with a receipt and the empty box of the treatment to confirm. The student will need to be re-evaluated by the school nurse.
- If the head lice have not been treated properly, it may be necessary for the student to remain at home until proper medically endorsed treatment is completed and there are no live lice.

TA Board approved 11/14/2023

Medication Policy

- All Medications administered by school personnel during school hours **MUST** be prescribed by a licensed healthcare provider (ex. MD, FNP, PA, etc.) All medications include prescribed, over the counter, cough drops, eye drops, inhalers, breathing treatments, ear drops, topical medications, injections, etc. Please obtain a physician's authorization for medication form from the school nurse.
- All medications administered at school must have a written request/authorization signed by the parent/legal guardian and the healthcare provider that is prescribing the medication. Each medication has to have an order form completed. School personnel will not be able to administer any medication to students unless they have received a medication form properly completed and signed by both physician and parent/guardian and the medication has been received in an appropriately labeled container.
- Medication is to be collected directly from the parent/guardian. Students are not allowed to transport medication to school or check in medication with the nurse, regardless of age. Medication has to be signed in and counted with the nurse and a parent/guardian on the medication log. (Self-carry medications like Epipens, inhalers, etc. prescribed by the student's provider will require a physician order and a self-carry form stating that the student can carry medication on him/her.
- Provide each medication in a separate pharmacy-labeled container that includes the child's name, name of the medication, the exact dose to be given, time/frequency the medication is to be given, route of administration, number of doses in the container, and the expiration date of the medication. If the same medication needs to be given at home and at school, the parent/guardian should request two labeled containers from the pharmacist.
- Prescribed over the counter medications administered at school be provided in their original packaging labeled with the student's name.
- Provide the school with new, labeled containers when dosage or medication changes are prescribed.
- Students should not receive the first dose of a newly prescribed routine medication at school due to unknown response.
- The board/administration/school/nurse assumes no responsibility for the students who self-medicate without authorization. This is the responsibility of the student's parent/guardian.
- It is highly recommended to give medication at home before and after school hours. (See North Carolina School Health Program Manual for reference if needed.) If this is not possible, please be sure to make arrangements with school administration for medication to be given during school hours. It is also the responsibility of the parent/guardian to collect any unused medication at the end of the school year or when the medication is discontinued.
- When students are subject to health issues or health hazards such as allergy to bee stings, it is the parent's/guardian's responsibility to assure that the school nurse/administration is aware so the proper measures can be put in place

School Uniform/Dress Code Policy

Thomas Academy strives to create an environment which allows our students to concentrate on academic and character education of the highest quality. Our mandatory uniform policy is designed so that the clothing and physical appearance of an individual does not disrupt or distract from the education environment. We believe that this dress code will take the learning environment to an even higher standard, will instill a common identity among students and pride in the school, and will create a safer and more disciplined learning environment.

Monday - Thursday School Uniform

Students are required to wear pants/slacks or standard jeans of any solid color (no cuts/holes/slashes). Shirts may be dark green, black, or white polo style shirts or an approved Thomas Academy T-shirt/sweatshirt. Uniform pieces are the responsibility of the parent/guardian/teaching parent and the student.

Friday

Friday dress code for pants and shirts may be more casual as determined by a behavior specialist based on the weekly Motivation System. Students may wear pants/jeans and shirts with appropriate logos or graphics. Casual clothing does not mean with cuts/holes/slashes or form-fitting materials. Even on a casual day students have a standard to uphold.

Shirts

- The dark green, black, or white polo style shirts may be purchased at Walmart or any clothing store.
- School approved T-shirts/sweatshirts may be purchased from Thomas Academy.
Bottoms: Pants, Shorts, Capris, or Skorts
- Slacks and regular, standard jeans may be of any solid color (no slits of any sort, no stretchy material or leggings/jeggings permitted).
- Bottoms worn above the hips at all times
- No form-fitting spandex material, yoga, pajama bottoms, or sweatpants of any description allowed
- Bottoms free of labels, graphics, or logos
- Bottoms no shorter than 4 inches above the knee
- Undergarments not visible
Outer Garments: Coats/Sweatshirts
Should a student wear an outer garment over the school shirt, it must be one that can open completely and remain open while in the building. All other outer garments must be removed while in the building unless it is a TA approved sweatshirt.

Additional Items

- Blankets: not permitted
- Belts are preferred; if worn, belts must be buckled at all times.
- Shoes must have a back. No flip flops, slides, bedroom shoes, etc. are permitted.
- Sunglasses are not permitted in class at any time.

- Head coverings are not to be worn in the classroom, except on a case-by-case basis, due to a bona fide reason with prior approval by the principal. Violation of the Dress Code If a student comes to school in violation of the dress code, parents/guardians/TP will be required to bring additional clothing so the student can change. Students may be sent back home or to the cottage to change. Thomas Academy may provide alternative clothing until new clothing arrives.

Field Trips or Off Campus

In addition, students on school-sponsored trips will be required to wear the school uniform. Students leaving for off campus appointments must wear their school uniform. Should they return prior to the end of the day, they must be in school uniform.

TA Board approved 5/14/2024

THOMAS ACADEMY CHARTER SCHOOL

STUDENTS: Enrollment and Attendance Policy

Attendance and Excuses

I. Policy Statement

- A. The BGHNC Superintendent, Thomas Academy Board of Directors' and Thomas Academy (TA) Charter School believe that there is a significant relationship between regular school attendance, student achievement, and the completion of school. Therefore, we believe that it is essential that TA give special emphasis to implementing and communicating to parents/guardians/teaching parents, and students the school system's attendance policy.
- B. This policy shall serve as the student attendance policy for Thomas Academy Charter School.

II. Standards

- A. This student attendance policy shall be communicated annually to students, parents/guardians, and staff in a manner determined by the Superintendent/Principal.
- B. All students are expected to attend school regularly and may be excused from class or school only for reasons specified in the NC state regulation or as authorized by the Superintendent/Principal. The parent/guardian or person, who otherwise has legal custody, care, or control of a child, shall ensure that the child attends school.
- C. The Superintendent/Principal shall establish procedures to reduce absenteeism and provide support for chronically absent and habitually truant students and their families.

I. Purpose

- A. To implement the Thomas Academy Charter School Enrollment and Attendance Policy.
- B. To establish guidelines for recording and excusing absences and to outline procedures for monitoring student attendance.

II. Definitions

- A. Attending School Regularly – Defined in NC State standard of 90% for satisfactory attendance. Students must meet the “90% percent rule” for the state of North Carolina which requires students to be present 90% of the time in class in order for the student to get credit. A student must be in attendance for 162 days.
- B. Eligible Student- A student who is 18 years old or older.
- C. Parent – The biological or adoptive parent, legal guardian or person acting in the absence of the parent or guardian or otherwise has legal custody or care and control of a child.
- D. Parenting Student – A student who is the mother, father or legal guardian of a child.

E. Unlawful Absence – An absence, including absence for any portion of the day, for any reason other than those cited as lawful absences in NC State regulation.

III. Guidelines

A. Thomas Academy (TA) shall provide annual notice of the student attendance policy to students and parents/guardians/teaching parents by publication in the parent/student handbook and by other means.

B. Students are expected to attend school and all classes regularly and punctually and may be excused from class or school only for reasons specified in NC State regulation, including lawful absences for pregnant and parenting students, or as authorized by the Superintendent or Principal.

C. Thomas Academy shall develop and implement programs to improve attendance.

D. Students shall be considered “attending” school when the student is physically on school grounds or is participating in instruction, virtual instruction or instruction-related activities at an approved off-grounds location.

IV. Lawful and Unlawful Absences

A. Lawful Absence

1. It is the responsibility of the student; parent or guardian ensures that the student attends school every day. North Carolina Law requires that children between the ages of 7 and 16 years must attend school. Thomas Academy will diligently adhere to the North Carolina Compulsory School Attendance Law, including N.C.G.S. 115-378. The Superintendent/Principal may excuse a student’s absence for the following reasons if adequate evidence is provided:

- a. Death in the immediate family.
- b. Illness of the student. The principal may require a physician’s certificate from the parent/guardian/teaching parent of a student including medical/dental appointments.
- c. Court summons.
- d. Hazardous weather conditions, which would endanger the health or safety of the student when in transit to and from school.
- e. Work approved or sponsored by the school and accepted by the Superintendent or the School Principal as reason for excusing the student.
- f. Observance of a religious holiday.
- g. State emergency.
- h. Other emergency or set of circumstances, which, in the judgment of the Superintendent or Principal, constitutes a good and sufficient cause for absence from school.
- i. Health exclusion, which includes immunizations and other health related communicable or contagious diseases.
- j. Suspension
- k. Lack of authorized transportation. Lack of transportation does not include students denied authorized transportation for disciplinary reasons.
- l. Absences related to pregnancy and parenting student related conditions.

2. Absences are coded lawful when a note or other documentation that supports the reason for the absence is submitted to the school.

B. Pregnant and Parenting Students

1. A student's absence due to a student's pregnancy or parenting needs is a lawful absence as provided under this subparagraph.
2. Schools will excuse all student absences due to pregnancy or parenting-related conditions, including for labor, delivery, recovery and prenatal/postnatal medical appointments, including:
 - a. Providing at least 10 days of excused absences for a parenting student after the birth of the student's child;
 - b. Excusing any parenting-related absences due to an illness or a medical appointment of the student's child, including up to 4 days of absence per school year for which the school may not require a note from a physician;
 - c. Excusing any absence due to a legal appointment involving the pregnant or parenting student that is related to family law proceedings, including adoption, custody and visitation; and
 - d. Excusing any parenting-related absence from a class due to use of a lactation space to nurse or to express breast milk.
3. In addition to home and hospital services, the school may allow the student to:
 - a. Choose one of the following alternatives to make up work that the student missed:
 - (1) Retake a semester;
 - (2) Participate in an online course credit recovery program; or
 - (3) Allow the student 6 weeks to continue at the same pace and finish at a later date; or
 - (4) Participation in an Adult High School Diploma Program.

C. Unlawful Absence

An absence, including absence for any portion of the day, for any reason other than those cited as lawful is presumed to be unlawful and may constitute truancy.

D. Tardiness and Early Dismissal

1. Students reporting late to school/class are considered tardy.
2. Leaving school/class before the day/period ends is considered early dismissal.
3. School personnel will designate tardiness and early dismissal as lawful or unlawful.

E. Truant or Chronically Absent Student

A truant student or chronically absent student is a student who is unlawfully absent from school:

1. For more than 4 days in any quarter;
2. For more than 9 days in any semester;
3. For more than 18 days in any school year.

V. Standards for Regular Attendance

- A. Students are expected to maintain satisfactory attendance at the NC state standard of 90%.
- B. In order to foster continuity of the instructional program, students should not exceed an absence rate of 10% or four days in a given quarter.

VI. Verifying Absences/Tardiness

- A. A written explanation of each absence is required from the parent/guardian/teaching parent/eligible student.
- B. The principal shall implement the following procedures for verifying student absences and tardiness.
 - 1. Unless the parent has notified the school of their child's absence, the parent will be notified, to the extent possible, by 10 a.m. of their child's absence each day the child is absent, unless the opening of school is delayed.
 - a. In the event of a delayed opening of one hour, the parent will be notified of a student's absence, to the extent possible, by 11 a.m.
 - b. In the event of a delayed opening of two hours, the parent will be notified of a student's absence, to the extent possible, by 12 noon.
 - 2. Notice of the student's absence must be made via phone, email or text message.
 - 3. The principal will ensure that parents are notified of these absence procedures at the beginning of each school year.
 - 4. Annually, the principal shall designate the person(s) responsible for providing notice under this paragraph.
- C. A student absent from school shall present a note to the school principal immediately upon return to school.
 - 1. The absence note shall be signed by the parent/guardian/teaching parent/eligible student and include the name of the student, the date of the absence and the reason for the absence.
 - a. The absence note shall be submitted to the school principal no later than five days after the student's return to school.
 - b. The absence note may be submitted in person or by electronic mail (e-mail) to the school principal.
 - 2. Upon receipt of the absence note, the school will certify the absence as excused or unexcused.
 - 3. Absences not supported by a note will be considered unexcused and unlawful.
 - 4. If a student is absent for an extended period of time due to illness, a written statement of explanation may be required from the physician no later than five days after the student's return to class.
- D. Any absence or tardiness not supported by a parent/eligible student note will be marked as an unlawful absence.

VII. Student Chronic Absenteeism

Based on the NC State Board of Education Policy ATND-004, student chronic absence is a risk factor for adverse student outcomes. Student Chronic Absentee is a student enrolled in a North Carolina public school for at least 10 school days at any time during a school year and whose total number of absences is equal to or greater than 10% of the total number of days that the student has been enrolled in the school. ***Student chronic absence refers to missing an excessive number of school days for ANY reason (excused, unexcused, disciplinary); that student is at risk of falling behind and not passing the school year.*** The faculty and staff of Thomas Academy will be ever vigilant to identify and assist students who have chronic absences by regularly contacting the parents/guardians/TPs. The superintendent and principal will notify Social Services and Juvenile Justice counselors when their assistance is required. **In order to learn and progress academically STUDENTS MUST BE IN ATTENDANCE.**

Chronically absent students in grades 6-12 can make up missed time by attending an after school homework club or in school required study hall sessions. In order for a student to attend the after school homework club, the student and parent must sign a contract denoting the rules and procedures for the homework club.

At more than 18 absences whether excused or unexcused in a year-long course and more than 9 absences in a semester-long one, a student may fail the course and be retained. Students who have a chance, a grade of 55 or above, to pass academically may be offered attendance recovery.

VIII. Make-up Work

- A. It is the responsibility of the student or the student's parent/guardian/teaching parent to request missed assignments for each lawful absence.
- B. After 5 school days, and in normal circumstances, any missed assignments not turned in will be graded as a zero. Principal approval is required for any requests for credit for assignments not turned in after 5 days.
- C. Teachers will assist students in making up missed work for excused absences.
- D. Suspensions/expulsions: make-up work will be allowed. See A. Lawful Absence, j.
- E. Make up work for pregnant and parenting students shall be provided as outlined in paragraph IV(B) of this rule.

IX. Attendance-Monitoring

- A. Recording Absences
 1. The home room teacher is responsible for recording the attendance of students in class. Teachers shall record absences in Power School reporting system daily.
 2. Teachers shall maintain records in accordance with the applicable records retention schedule.
- B. Schools should utilize the interventions outlined in the attendance manual for students who are not meeting the attendance standard, without a documented and approved excuse.

- C. Students who have not shown improvement should be referred to JDD and DSS.
- D. Report cards will record the number of excused and unexcused student absences and tardies.

X. Attendance Recognition

Each school shall establish strategies to encourage regular school attendance and incorporate motivational programs in the school's attendance program to improve student attendance.

XI. Parental Accountability

- A. Each person who has legal custody or care and control of a child who is five years old or older and under 18 shall see that the child attends school regularly during the entire school year, unless the child is otherwise exempted from attendance as provided by state law.
- B. Thomas Academy will hold the parent/legal custodian responsible for the attendance of a child and may file charges, as required by state statute, in district court against a parent/legal custodian who fails to see that the child receives instruction under the NC Compulsory Attendance law.

TA Board approved 07/09/2024



PARENT RIGHTS & RESPONSIBILITIES IN SPECIAL EDUCATION

Notice of Procedural Safeguards

July 2016

PUBLIC SCHOOLS OF NORTH CAROLINA

State Board of Education | Department of Public Instruction | Exceptional Children Division

LOCAL EDUCATIONAL AGENCY (LEA) CONTACT

The local educational agency (LEA) is your local school district. This may be a county or city school district, public charter school or State-operated program. The acronym LEA is used throughout this document for your local charter school, school district or State-operated program.

It is important that you understand the Procedural Safeguards (legal rights) provided for you and your child with a disability. Staff is available to assist you in understanding your rights and will provide further explanation upon your request. If you have any questions or would like additional information, please contact the Exceptional Children (EC) Department in your local LEA.

- LEA EC Directors are listed at <http://ec.ncpublicschools.gov/directory/lea-ec-program-directors>
- Charter Schools are listed at <http://www.ncpublicschools.org/charterschools/schools/>
- State-operated Programs are listed at <http://www.ncpublicschools.org/esdb/directory/>

<p>LEA's EC Director: _____</p> <p>Telephone: _____</p> <p>Email: _____</p>
--

State Educational Agency (SEA) The State Educational Agency is the North Carolina Department of Public Instruction (NCDPI). The acronym, NCDPI, is used throughout this document to refer to the SEA. The Exceptional Children Division (ECD) is part of NCDPI.

State EC Director

William J. Hussey
 NC Department of Public Instruction :: Exceptional Children Division
 6356 Mail Service Center, Raleigh, NC 27699-6356 :: Telephone 919.807.3969 | Fax 919.807.3243
<http://ec.ncpublicschools.gov/>

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SBE MISSION: The State Board of Education has the constitutional authority to lead and uphold the system of public education in North Carolina.

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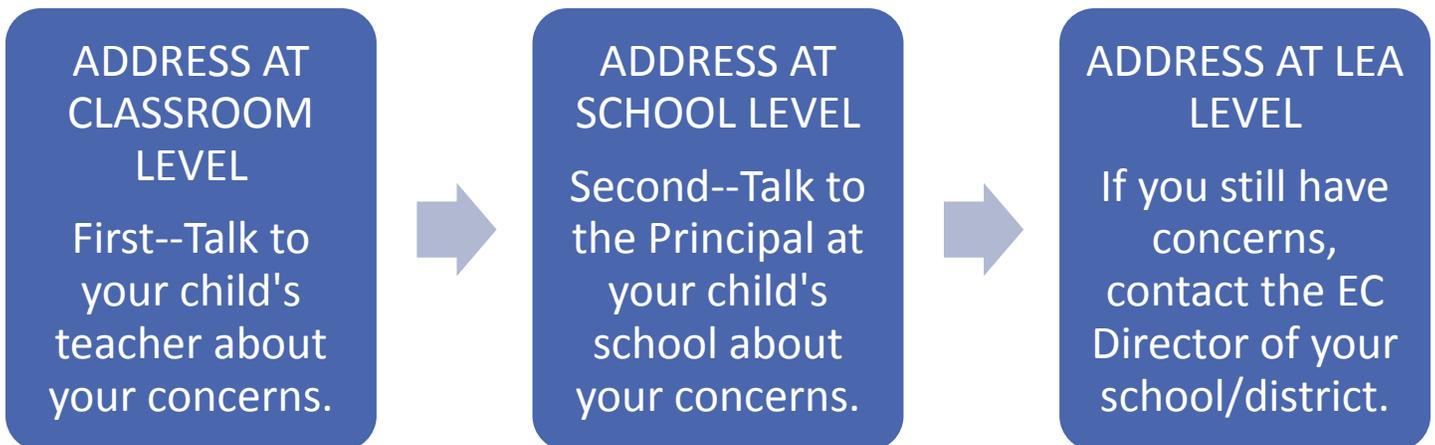
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A REMINDER TO PARENTS:

If you have questions and/or concerns regarding your child’s special education services, please use the flow chart below to help ensure they are addressed in the most effective and efficient way possible.



INTRODUCTION

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) is the federal law and Article 9, Section 115C of the North Carolina General Statutes is the State law concerning the education of students with disabilities. Part B of the IDEA refers to the part of the law for children with disabilities who are ages three (3) through twenty-one (21).

Children with disabilities include those with autism, deaf-blindness, deafness, developmental delay, serious emotional disability, hearing impairment, intellectual disability, multiple disabilities, other health impairment, orthopedic impairment, specific learning disabilities, speech and/or language impairment, traumatic brain injury and visual impairment.

PURPOSE OF THIS DOCUMENT

The IDEA requires schools to provide parents of a student with a disability notice containing a full explanation of the Procedural Safeguards (legal rights) available under the IDEA and the accompanying federal regulations. It is critical for parents to understand both their rights and responsibilities in the special education process.

Age 18 is the age of majority in the State of North Carolina and the right to make educational decisions and procedural safeguards transfer to the student at this time. Unless a guardian has been appointed to represent the student, the student represents him or herself. (See *Policies, Transfer of Parental Rights at Age of Majority, NC 1504-1.21*)

The numbers listed after each heading in this document refer to the sections for the legal citations in the federal regulations and the North Carolina Policies Governing Services for Children with Disabilities (Policies) where you can find the information. (Examples: 34 CFR §300.300 (Federal) and NC 1504-1.13 (Policies)) The federal regulations regarding IDEA can be found at <http://idea.ed.gov/download/finalregulations.pdf> and *Policies* is located at <http://ec.ncpublicschools.gov/parent-resources/policies>.

INFORMATION IN THE NOTICE OF PROCEDURAL SAFEGUARDS

This document provides an overview of 13 parental special education rights, sometimes called procedural safeguards. These same procedural safeguards are also available for students with disabilities who have reached the age of 18.

1. Parental Consent
2. Confidentiality of Information
3. Prior Written Notice
4. Disciplinary Procedures
5. Independent Educational Evaluation
6. Unilateral Placement of Children with Disabilities by Parents in Private Schools at Public Expense
7. Availability of Mediation
8. State Complaint Procedures
9. Filing a Due Process Petition
10. Hearings on Due Process Petitions
11. State-Level Appeals
12. Civil Actions
13. Attorney's Fees

WHEN YOU WILL RECEIVE THE PROCEDURAL SAFEGUARDS

The LEA must provide you with the Notice of Procedural Safeguards at least **one time each school year** and at the following times:

- a. When your child is first referred for evaluation or when you request an evaluation;
- b. When you request a copy of the Notice of Procedural Safeguards;
- c. When your child is removed for disciplinary reasons and the removal results in a change of placement;
- d. Upon receipt of the first state complaint and/or the first due process petition in a school year, if you file a State complaint or request a due process hearing; and
- e. Upon any revision to the content of the procedural safeguards notice.

TO ASSIST YOU:

There are **Acronyms** and **Understanding Parent Rights & Responsibilities** sections at the beginning of this document to help explain some of the rights and procedural safeguards provided to parents. It is not a complete list or explanation of those rights. Additional acronyms and definitions used often in special education are also found at the end of this document in Appendix I. Throughout this document, "day" means calendar day unless it is written as business day or school day.

ACRONYMS

Acronyms that are used often in special education are listed for you. Not all of these acronyms are used in the NC Notice of Procedural Safeguards.

ADHD	Attention Deficit Hyperactivity Disorder	SLD (LD)	Specific Learning Disability
ADD	Attention Deficit Disorder	LEA	Local Education Agency
AT	Assistive Technology	LRE	Least Restrictive Environment
AU	Autism Spectrum Disorder	MTSS	Multi-Tiered System of Support
BIP	Behavior Intervention Plan	MU	Multiple Disabilities
CFT	Child and Family Team	OCS	Occupational Course of Study
CRC	Community Residential Center	OHI	Other Health Impairment
DB	Deaf - Blindness	OI	Orthopedically Impairment
DD	Developmental Disability	OM	Orientation and Mobility
DF	Deafness	OT	Occupational Therapy
EC	Exceptional Children	OTA	Occupational Therapy Assistant
ECAC	Exceptional Children’s Assistance Center	PBIS	Positive Behavior Intervention Support
ECS	Extended Content Standards	PLAAFP	Present Level(s) of Academic and Functional Performance
ESY	Extended School Year	PRTF	Psychiatric Residential Treatment Facility
FAPE	Free and Appropriate Public Education	PT	Physical Therapy
FBA	Functional Behavioral Assessment	PTA	Physical Therapy Assistant
FERPA	Family Educational Rights and Privacy Act	RE	Regular Education
GE	General Education	SEA	State Educational Agency
HI	Hearing Impairment	SED	Serious Emotional Disability
IDEA	Individuals with Disabilities Education Act	SI	Speech and/or Language Impairment
IDMI	Intellectual Disability - Mild	SLP	Speech Language Pathologist
IDMO	Intellectual Disability - Moderate	SLPA	Speech Language Pathologist Assistant
IDSE	Intellectual Disability – Severe	TBI	Traumatic Brain Injury
IEE	Independent Educational Evaluation	VI	Visually Impairment
IEP	Individualized Education Program	VR	Vocational Rehabilitation

Understanding Parent Rights & Responsibilities in Special Education

You Are a Member of the IEP Team!

If there is anything you do not understand, ask to have it explained to you.

This section is designed to summarize and help you understand your rights and responsibilities as a parent regarding special education. It **SHOULD NOT BE USED AS A SUBSTITUTE FOR THE FULL VERSION OF THE PROCEDURAL SAFEGUARDS** outlined in the Individuals with Disabilities Education Act (IDEA) and the North Carolina Policies Governing Services for Children with Disabilities (Policies) pertaining to special education. Please refer to the pages noted in each section below to find more information regarding these rights in the NC Notice of Procedural Safeguards beginning on page 12.

CONSENT (See pages 12-14)



- ✓ There are times when the LEA must ask for your written permission.
 - The LEA must have your permission to test/evaluate your child for special education and related services for the first time (initial evaluation).
 - After the evaluation, if the IEP Team decides your child is eligible, you must give written permission before your child can receive special education and related services for the first time. **(You are a member of the IEP Team.)**
 - You can withdraw your permission, but cannot change what happened before you withdrew it.
- ✓ There are times when the LEA does NOT need your permission.
 - If the IEP Team decides your child needs any testing for a reevaluation and you do not respond to requests for your permission, the school can test your child without your permission.
 - Before an evaluation or reevaluation, the IEP Team may review the existing data and this does not require your permission.
 - The LEA (school/district) does not need your permission to give your child with a disability a test or other evaluation that it is giving other children in the school, unless permission is required from the other parents.

CONFIDENTIALITY OF INFORMATION & ACCESS TO RECORDS (See pages 14-16)

- ✓ You have a right to look at your child's education records.
 - The LEA (school/district) must not delay your review of your child's educational records and must let you review them before any IEP meeting or due process hearing.
 - You have the right to:
 - Review your child's education records,
 - Ask for an explanation of any records you do not understand,
 - Ask for copies if you cannot go to the school to review your child's records, and
 - Have someone who represents you review your child's records.
- ✓ You may request to have something in the record changed or removed if you feel it should not be in your child's record. You have the right to add relevant information to your child's record.
 - ✓ Generally, the LEA must have written permission from the parent or eligible student to release any information from a student's education record.
 - However, federal law (FERPA) allows schools to share those records without consent with certain individuals under the law, including school officials with a legitimate educational interest. (34 CFR § 99.31).
 - The LEA must have written permission to share information with other agencies assisting with the transition plan in your child's IEP.

CONFIDENTIAL

PRIOR WRITTEN NOTICE

(See page 17)

- ✓ The LEA (school/district) must give you information **BEFORE** they make or refuse to make any changes in your child's identification, evaluation or placement. This information must be given to you in writing.
 - **Identification** means the process of identifying your child as being eligible or not eligible to receive services through an IEP.
 - **Educational placement** means the amount of special education services provided to your child. Placement does not mean school assignment.
- ✓ **Native Language** means the language normally used by the person (or child's parents) in the home environment. For a person with deafness or blindness or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).
 - **Your LEA must give you written notice in your native language.**
 - If your native language cannot be written, the school system will translate it for you orally.
- ✓ If you take away (revoke) your consent for services, the LEA must give you notice in writing before stopping any services.
- ✓ The **PRIOR WRITTEN NOTICE** must clearly explain:
 - Everything the LEA decided to do or refused to do and why those decisions were made;
 - The other things the LEA considered, but decided against and why it decided against them; and
 - All the information used in making the decisions.
- ✓ **If there is anything you do not understand, ask to have it explained to you.**
- ✓ Not all LEAs will send important legal notices through email. If you would like to receive these notices through email, ask if your LEA allows them to be sent electronically.
- ✓ **If you disagree with an LEA decision, you have rights to take action.** (See pages 23-30.)



INDEPENDENT EDUCATIONAL EVALUATIONS (See pages 22-23)

- ✓ If you disagree with the school's evaluation of your child you have the right to request an independent educational evaluation (IEE) provided by someone not employed by the LEA (school/district) at no cost to you.
- ✓ Submit your request in writing to the LEA. The LEA will give you information about where an independent educational evaluation may be obtained, and the qualifications and criteria applicable for IEEs.
- ✓ If the LEA has not completed an evaluation, the LEA may not be required to pay for an IEE.
- ✓ If you ask for an IEE, the LEA has only two choices:
 - Take the steps necessary to ensure that you get an IEE at no cost to you, **or**
 - File for due process and try to prove to an administrative law judge that their own assessment is appropriate.
- ✓ You always have a right to pay for an independent educational evaluation (IEE).
- ✓ The results of any evaluation must be considered by the LEA, but they are not obligated to follow its recommendations.
- ✓ You may request only one IEE (paid for by the LEA) for each LEA evaluation you disagree with.

PRIVATE SCHOOL PLACEMENT (See page 23)

- ✓ The LEA (school/district) is not required to pay for the private school if you decide to enroll your child in a private school and the LEA made a free appropriate public education (FAPE) available to your child.
- ✓ Some services may be provided to your child through a private school service plan by the LEA where the private school is located if those services are part of the services the LEA provides to parentally placed private school students.
- ✓ The LEA may have to pay for private school placement if it is an appropriate placement and if a hearing officer or court decides the LEA did not make a FAPE available for your child.
- ✓ If you decide to enroll your child with a disability in a private school and ask the LEA to pay, you **must** have told school officials at the last IEP Team meeting you attended or **10 business days before withdrawing** your child that you were going to enroll your child in a private school and what your concerns were about the public school program.

DISCIPLINE (See pages 18-22)

A DISCIPLINARY REMOVAL is usually called an out-of-school-suspension (OSS), but it may also include any time the school calls and asks you to pick up your child before the end of the school day because of disciplinary reasons. It also includes in-school-suspension (ISS) if services are not provided to your child, and suspension from the bus, IF transportation is a related service for child's IEP.

School personnel may remove a child with a disability who violates a code of student conduct for a REMOVAL OF 10 SCHOOL DAYS OR LESS and the child may be treated the SAME as children without a disability.

ADDITIONAL PROTECTIONS APPLY TO A CHILD WITH AN IEP WHO HAS BEEN REMOVED FOR MORE THAN 10 SCHOOL DAYS WITHIN A SCHOOL YEAR

- **YOUR CHILD HAS A RIGHT TO CONTINUE RECEIVING SERVICES AFTER THE 10TH DAY OF REMOVAL.**
- **OTHER RIGHTS DEPEND ON WHETHER THERE WAS A CHANGE IN PLACEMENT.**
 - **A single removal for more than 10 consecutive school days is an automatic change in placement.**
 - Multiple removals totaling more than 10 school days are a change in placement **if** there is a pattern to the removals.
 - **Factors to determine if a pattern exists:**
 - The behavior leading to the current removal is substantially similar to the behavior in the other removals;
 - Number of days for each removal;
 - Total days removed; and
 - Closeness of removals.

RIGHTS

- On the 11th day of removal in a school year, your child is entitled to continue receiving education services. These services must allow participation in general education and progress toward IEP goals.
- **MANIFESTATION DETERMINATION REVIEW (MDR):** IF there is a change in placement, a meeting must be held to determine if the child's behavior was caused by, or had a direct and substantial relationship to, the child's disability, **and/or** the behavior was the direct result of the school's failure to implement the IEP.
 - The manifestation determination **must** take place within 10 school days of any decision to change the placement of a child with a disability because of behavior.
 - The manifestation determination is conducted by the LEA, the parent, and relevant members of the IEP Team (as determined by the parent and the LEA).
 - **If the Behavior IS A MANIFESTATION of the child's disability:**
 - The school must either –
 - Conduct a functional behavioral assessment (FBA) and implement a behavior intervention plan (BIP) **or**
 - If a BIP has already been developed, review the plan and modify as needed; **and**
 - The child returns to the placement from which the child was removed.
 - **If the Behavior IS NOT A MANIFESTATION of the child's disability:**
 - The student may receive the same discipline for behavior as children without a disability.

ALL STUDENTS WITH DISABILITIES

Special Circumstances: DRUGS, WEAPONS, SERIOUS BODILY INJURY

Your child can be removed to an interim alternative education setting (IAES) for up to 45 school days, if he or she (1) carries or has a weapon; (2) has, uses, solicits the sale of, or sells illegal drugs; or (3) causes serious bodily injury to another person. *(See definition of day in Appendix I.)*

COURT INVOLVEMENT –These procedures do **NOT** prevent the LEA from involving law enforcement.

If your child has not been identified as a child with a disability who is eligible for special education, but the LEA knew or had knowledge that your child might have a disability, then you can ask for the protections described in DISCIPLINARY PROCEDURES found on pages 18-22.

MEDIATION (See page 24)

- ✓ Mediation is a process focused on resolving disagreements and working toward a solution that satisfies all participants.
- ✓ You and/or the LEA (school/district) may request mediation any time you and the LEA cannot resolve a dispute **at no cost**.
- ✓ You do not have to file a State complaint or a due process petition in order to request mediation.
- ✓ Mediation is a voluntary process in which BOTH you and the LEA must agree to participate.
- ✓ A mediator does not take sides.
- ✓ If you and the LEA resolve the dispute, then the mediator writes an agreement for all parties to sign and it is legally binding.
- ✓ Discussions that happen during the mediation process must be kept confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any federal or state court.

**STATE COMPLAINT** (See pages 25-26)

- ✓ If you disagree with a decision made by your IEP Team or believe the district is not appropriately serving your child, you have a right to file a state complaint with the EC Division of the NC Department of Public Instruction (NCDPI).
- ✓ A State Complaint is a letter that:
 - Describes in detail what you think the school did wrong.
 - Explains why you think the school's action violates the law.
 - Proposes a solution or action you would like the school to take to fix the problem.
- ✓ **A state complaint must be filed within one calendar year of the alleged violation.**
- ✓ NCDPI has created a form which covers all information that should be included in your complaint. The form is found at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/formal-written-complaints>.
 - You are not required to use this form to file a complaint. However, if you do not use this form, you should review NC policies for what information should be included.
- ✓ **NCDPI will review your complaint to determine if there are possible violations.** If so, NCDPI will begin an investigation to determine whether the LEA (school/district) followed the law and considered all the relevant information about your student when making its decision. The investigation will follow the timeline on page 25.
- ✓ If NCDPI finds the LEA failed to provide appropriate services or violated the law, the department will issue a written decision that identifies the violation and outlines how the LEA must correct the violation and ensure the issues do not continue.
- ✓ You or the LEA may request mediation in order to resolve the issues more quickly and determine appropriate remedies for your child. See the section **Mediation** for more information about that process.
- ✓ **Limitations:**
 - NCDPI will not investigate an issue that is pending or has already been resolved by a due process petition, unless the issue is that the LEA is refusing to comply with the decision from a due process hearing.
 - NCDPI only has the authority to investigate issues directly related to special education laws and policies. It cannot investigate issues such as promotion, retention, personnel, and discrimination.

WHAT IS THE DIFFERENCE BETWEEN STATE COMPLAINTS AND DUE PROCESS?

A state complaint is a written request to DPI asking for an investigation of the actions of a school regarding a special education student. It can be filed by a parent or anyone else. A state complaint usually involves a concern that special education rules were not followed. For example, a complaint might state that services included on a student's IEP were not provided or that the school did not look at whether a child should get special education services after a parent asked for them. In addition, a complaint may raise an issue of whether an IEP is appropriate to meet the needs of a student. In such cases, DPI will look at whether the school followed the law (IDEA 2004) and considered all the relevant information about the student. Based on its findings, DPI will issue a written decision on whether the school violated any rules. If it determines violations resulted in the denial of a free, appropriate public education (FAPE) for the student, DPI can require the IEP Team to meet again and reconsider the issues.

A due process petition is a legal action filed to obtain a decision by a judge about a special education issue. Due process cases typically involve disputes between the parent and the school about whether the services provided to the child are proper and allow the child to make progress at school. They can also relate to issues about eligibility or evaluations. A due process petition must be filed by a parent of a special education student, or the student if he or she is 18 or over. School districts can also file due process petitions. If the issues are not settled, a court-like hearing will be held. Testimony will be taken from witnesses and a judge will make a decision.

DUE PROCESS & HEARINGS (See pages 27-31)



- ✓ If you disagree with a decision made by your IEP Team or believe the district is not appropriately serving your child, you have a right to file a due process petition with the Office of Administrative Hearings (OAH).
- ✓ A due process petition triggers a formal legal proceeding in front of an administrative law judge.
- ✓ This process can be difficult to participate in without an attorney or detailed knowledge of special education law and court procedure.
 - If you cannot afford an attorney, you may contact Legal Aid of NC or Disability Rights NC to seek free assistance.
 - You may also ask the LEA (school/district) for other free or low-cost services in your area.
- ✓ You may represent yourself in court, but no one else may represent you unless he or she has a license to practice law. If you choose to file a petition on your own, you should review the NC *Policies* and the OAH court rules in detail.
- ✓ **A due process petition must be filed within one calendar year of the alleged violation** unless the LEA stated it had resolved the issue or it withheld required information from you.
- ✓ DPI has created a form which covers all information that must be included in a petition. It can be found at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/due-process-hearings/h-06e.pdf>
 - You are not required to use this form. However, if you choose not to use this form, you should review NC policies for what information should be included. **A hearing will not occur if you did not provide all of the required information.**
- ✓ While the complaint is pending, your child will remain in their current educational placement unless you and the LEA agree on a different placement.
 - If the due process petition relates to initial admission to public school, your child will be admitted until the petition is resolved.
- ✓ The decision made by the administrative law judge is final unless you or the LEA brings an appeal, as described below under the heading **State Level Appeals**.

STATE LEVEL APPEAL (See page 32)

- ✓ If you or the LEA disagree with the judge's decision in a due process hearing, you may appeal it to an impartial review officer with DPI within 30 days of receiving the decision.
- ✓ The review officer will examine the record from the hearing, and may ask you and the LEA for more evidence and an oral or written argument.
- ✓ The review officer will make a decision and send it in writing to you and the LEA within 30 days of receiving the appeal, unless you or the LEA request an extension.
- ✓ The decision made by the review officer is final unless you or the LEA brings a civil action, as described below under the heading Civil Actions.

CIVIL ACTIONS

(See page 33)

- ✓ If you disagree with the review officer's final decision you have 30 days after receiving the final decision to file a civil action in state court or 90 days in federal court challenging that decision.
- ✓ A lawsuit may only be filed in state or federal court after you go through **both**:
 1. The initial due process hearing at the Office of Administrative Hearings (See ***Due Process & Hearings*** section); **and**
 2. An appeal to a review officer at NCDPI (see ***State Level Appeal*** section).



ATTORNEY'S FEES (See pages 33-34)

Fee Awards for Parents

- ✓ **Administrative Law Judges in NC cannot award attorneys' fees.**
- ✓ If you win any portion of your case, and you were represented by an attorney, you may ask a civil court to order the LEA to reimburse you for all or some of your attorneys' fees.
- ✓ Awards for attorneys' fee are not automatic, and the court will decide whether to award you fees and how much of your fees to award.
- ✓ If the court decides to award you fees, it will also decide whether to award you all of your fees, or only a part of your fees. The court will consider whether your attorney's rate is reasonable and the "degree-of-success" you had in your case.
- ✓ ***Some services that attorneys may do for you will NOT be eligible for a fee award.*** Attending IEP meetings, attending resolution sessions, and most types of tasks that attorneys may do for you **before** you decide to file a due process petition are all things that will NOT be reimbursed.
- ✓ The court can also reduce your fees, or deny you your fees altogether, for reasons found on page 34.
- ✓ If the court finds that the State or the LEA unreasonably delayed the final resolution, or there was a violation under the Procedural Safeguards, then the court cannot reduce your fee award.

Fee Awards for LEAs

- ✓ On the other hand, the court may decide that your attorney must pay the LEA's costs and/or the NCDPI's costs, if your attorney filed a petition that was trivial, unreasonable, or without any basis.
- ✓ The court can also decide that you or your attorney must pay the LEA's costs and/or the NCDPI's costs, if you filed due process for inappropriate reasons, such as to harass, cause unnecessary delay or increase the cost of the action or proceeding.

Resources for Parents

The organizations listed below are available to assist North Carolina's parents of children with disabilities.

Exceptional Children's Assistance Center (ECAC)

1.800.962.6817 or 704.892.1321 <http://www.ecac-parentcenter.org>

ECAC is home to NC's Parent Training and Information Center (PTI) and provides a variety of free services to parents of children with disabilities including: individual assistance with educational issues, workshops, lending library, newsletters, statewide toll-free Parent Info Line and more.

Family Support Network of North Carolina

1.800.852.0042 <http://www.fsnc.org/>

The Family Support Network has a free statewide information and referral service, parent-to-parent programs, and workshops for parents of children with disabilities. Call the Network for specific disability information and for listings for all the different disability support groups.

Organizations that Provide Low-Cost Legal Services

Disability Rights North Carolina

877-235-4210 or 919-856-2195 or 888-268-5535 (TTY)

Email: info@disabilityrightsnc.org <http://www.disabilityrightsnc.org/>

Disability Rights North Carolina is a private, nonprofit organization that protects the rights of children and adults with disabilities living in North Carolina through legally-based advocacy.

Legal Aid of North Carolina

1.866.219.5262 <http://www.legalaidnc.org>

Legal Aid of North Carolina (LANC) is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove barriers to economic opportunity. Education is a priority legal area for LANC attorneys, who represent students and parents in all 100 counties in North Carolina. LANC attorneys also assist families with legal problems affecting basic human needs, such as family, health, housing, employment, and income.

NC NOTICE OF PROCEDURAL SAFEGUARDS

The numbers listed after each heading in this document refer to the sections for the legal citations in the federal regulations and the North Carolina Policies Governing Services for Children with Disabilities (Policies) where you can find the FULL VERSION of the policies regarding each procedural safeguard. (Examples: 34 CFR §300.300 and NC 1504-1.13) The federal regulations regarding IDEA can be found at <http://idea.ed.gov/download/finalregulations.pdf> and Policies is located <http://ec.ncpublicschools.gov/parent-resources/policies>.

1. PARENTAL CONSENT 34 CFR §300.300 and NC 1503-1 (See page 6)

Consent

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent;
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**
3. You understand that the consent is voluntary on your part and that you may withdraw your consent at any time.

If you wish to revoke (cancel) your consent after your child has begun receiving special education and related services, you must do so in writing. Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent but before you withdrew it. In addition, the school district is not required to amend (change) your child's education records to remove any references that your child received special education and related services after your withdrawal of consent.

Consent for Initial Evaluation

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and obtaining your consent as described under the headings **Prior Written Notice** and **Parental Consent**.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.

Your school district may not use your refusal to consent to one service or activity related to the initial evaluation as a basis for denying you or your child any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, your school district may, but is not required to, seek to conduct an initial evaluation of your child by using the IDEA's mediation or filing a petition for a due process hearing. Your school district will not violate its obligations to locate, identify and evaluate your child (Child Find) if it does not pursue an evaluation of your child in these circumstances.

Special Rules for Initial Evaluation of Wards of the State

If a child is a ward of the State and is not living with his or her parent —

The school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

1. Despite reasonable efforts to do so, the school district cannot find the child's parent;
2. The rights of the parents have been terminated in accordance with State law; or
3. A judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

1. A foster child;
2. Considered a ward of the State under State law; or
3. In the custody of a public child welfare agency.

There is one exception that you should know. *Ward of the State* does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.

Parental Consent for Services

Your school district must obtain your informed consent before providing special education and related services to your child for the first time.

The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent or later revoke (cancel) your consent in writing, your school district may not use mediation or a due process hearing in order to obtain agreement or a ruling that the special education and related services (recommended by your child's IEP Team) may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent or later revoke (cancel) your consent in writing and the school district does not provide your child with the special education and related services for which it sought your consent, your school district:

1. Is not in violation of the requirement to make a free appropriate public education (FAPE) available to your child for its failure to provide those services to your child; **and**
2. Is not required to have an individualized education program (IEP) meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

If you revoke (cancel) your consent in writing at any point after your child is first provided special education and related services, then the school district may not continue to provide such services, but must provide you with prior written notice, as described under the heading **Prior Written Notice**, before discontinuing those services.

Parental Consent for Reevaluations

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. It took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. You did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using the mediation or due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

Documentation of Reasonable Efforts to Obtain Parental Consent

Your school must maintain documentation of reasonable efforts to obtain your consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to you and any responses received; **and**
3. Detailed records of visits made to your home or place of employment and the results of those visits.

When Consent is Not Required

Your consent is not required before your school district may:

1. Review existing data as part of your child's evaluation or a reevaluation; or
2. Give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children.

The school district must develop and implement procedures to ensure that your refusal to consent to any of these other services and activities does not result in a failure to provide your child with a free appropriate public education (FAPE). Also, your school district may not use your refusal to consent to one of these services or activities as a basis for denying any other service, benefit, or activity, unless another Part B requirement requires the school district to do so.

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district may not use its dispute resolution procedures (i.e., mediation or impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to some parentally-placed private school children with disabilities).

2. CONFIDENTIALITY OF INFORMATION 34 CFR §§ 300.610 - 300.625 AND NC 1505-2

(See page 6)

Definitions as used under this section

As used under the heading **Confidentiality of Information**:

- **Destruction** means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- **Education records** means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).
- **Participating agency** means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.
- **Personally identifiable** means information that includes:
 - a) Your child's name, your name as the parent, or the name of another family member;
 - b) Your child's address;
 - c) A personal identifier, such as your child’s social security number or student number; **or**
 - d) (d) A list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

Confidentiality – Notice to Parents

The **NC Department of Public Instruction (NCDPI)** must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. A description of the extent to which the notice is given in the native languages of the various population groups in the State;
2. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
4. A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 CFR Part 99.

Before any major activity to identify, locate, or evaluate children in need of special education and related services (also known as “child find”), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of these activities.

Access to Records

The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your school district under Part B of IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an individualized education program (IEP), or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

Your right to inspect and review education records includes:

1. Your right to a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
2. Your right to request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
3. Your right to have your representative inspect and review the records.

The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Record of Access

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of 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.

Records on More than One Child

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.

List of Types and Locations of Information

On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.

Fees

Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.

Amendment of Records at Parent's Request

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of your right to a hearing as described under the heading **Opportunity For a Hearing**.

Opportunity for a Hearing

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

Hearing Procedures

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under the Family Educational Rights and Privacy Act (FERPA).

Information about FERPA is at: <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html?src=rn>

Result of Hearing

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of your child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
2. If the participating agency discloses the records of your child or the challenged information to any party, the explanation must also be disclosed to that party.

Consent for Disclosure of Personally Identifiable Information

Unless the information is contained in education records, and the disclosure is authorized without parental consent under the Family Educational Rights and Privacy Act (FERPA), your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

Safeguards

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of IDEA and the Family Educational Rights and Privacy Act (FERPA).

Each participating agency must maintain, 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.

Destruction of Information

Your school district must inform you when personally identifiable information collected, maintained, or used under Part B of IDEA is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

3. PRIOR WRITTEN NOTICE

34 CFR §300.503 and NC 1504-1.4 (See page7)

Notice

Your school district must give you written notice (provide you certain information in writing), within a reasonable amount of time before it:

1. Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; **or**
2. Refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.

Note: Information about providing prior notice due to a disciplinary change in placement is located under the heading *Disciplinary Procedures*.

Content of Notice

The written notice must:

1. Describe the action that your school district proposes or refuses to take;
2. Explain why your school district is proposing or refusing to take the action;
3. Describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. Include a statement that you have protections under the procedural safeguards provisions in Part B of IDEA;
5. Tell you how you can obtain a description of the procedural safeguards if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. Include resources for you to contact for help in understanding Part B of IDEA;
7. Describe any other options that your child's Individualized Education Program (IEP) Team considered and the reasons why those options were rejected; **and**
8. Provide a description of other reasons why your school district proposed or refused the action.

Notice in Understandable Language

The notice must be:

1. Written in language understandable to the general public; **and**
2. Provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your school district must ensure that:

1. The notice is translated for you orally or by other means in your native language or other mode of communication;
2. You understand the content of the notice; **and**
3. There is written evidence that the requirements in paragraphs 1 and 2 have been met.

Native Language

Native language, when used regarding an individual who has limited English proficiency, means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

Electronic Mail

If your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. Prior written notice;
2. Procedural safeguards notice; **and**
3. Notices related to a due process complaint.

4. DISCIPLINARY PROCEDURES

34 CFR §§300.530 – 300.536 and NC 1504-2 (See page 8)

Authority of School Personnel and Case-by-Case Determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

Note: A **removal** is usually called an out-of-school suspension (OSS), but it may also include any time the school calls and asks you to pick up your child before the end of the school day because of disciplinary reasons. It also includes in-school-suspension (ISS) if services are not provided to your child, and suspension from the bus, **if** transportation is a related service for child's IEP.

General

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see the heading **Change of Placement Because of Disciplinary Removals** for the definition).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

Additional Authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see the subheading **Manifestation Determination**) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's IEP Team determines the interim alternative educational setting for such services.

Services

The services that must be provided to your child with a disability who has been removed from his or her current placement may be provided in an interim alternative educational setting (IAES).

The school district is only required to provide services to a child with a disability who has been removed from his or her current placement for **10 school days or less** in a school year, if it provides services to children without disabilities who have been similarly removed.

A child with a disability who is removed from the child's current placement for **more than 10 school days** and the behavior is not a manifestation of the child's disability (see subheading, **Manifestation Determination**) or who is removed under special circumstances (see the subheading, **Special Circumstances**) must:

1. Continue to receive educational services (have available a free appropriate public education), so as to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP; **and**
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and **if** the current removal is for **10 school days** in a row or less **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see the heading, **Change of Placement Because of Disciplinary Removals**), the child's IEP Team determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting (that may be an interim alternative educational setting), and to progress toward meeting the goals set out in the child's IEP.

Manifestation Determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, you, and other relevant members of the IEP Team (as determined by you and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by you to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; **or**
2. If the conduct in question was the direct result of the school district's failure to implement the child's IEP.

If the school district, you, and other relevant members of the child's IEP Team determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, you, and other relevant members of the child's IEP Team determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.

Determination that Behavior was a Manifestation of Your Child's Disability

If the school district, you, and other relevant members of the IEP Team determine that the conduct was a manifestation of the child's disability, the IEP Team must either:

1. Conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; **or**
2. If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading Special circumstances, the school district must return your child to the placement from which your child was removed, unless you and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

Special Circumstances

Whether or not the behavior was a manifestation of your child's disability, school personnel may remove a student to an interim alternative educational setting (determined by the child's IEP Team) for not more than 45 school days, if your child:

1. Carries a **WEAPON** (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of NCDPI or a school district;
2. Knowingly has or uses **ILLEGAL DRUGS** (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of the NCDPI or a school district; **or**
3. Has inflicted **SERIOUS BODILY INJURY** (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of the State Educational Agency or a school district.

Definitions

- **Controlled substance** — A drug or other substance identified under schedules I, II, III, IV or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)). Controlled substances under schedule I have no acceptable medical use in the United States. They have a high potential for abuse and there is no accepted safety for use of the drug or other substance under medical supervision. Controlled substances under schedules II, III, IV and V have a currently accepted medical use for treatment in the United States. They range from having a high potential for abuse to a low potential for abuse. Physical or psychological dependence on these drugs ranges from severe dependence to limited dependence.
- **Illegal drug** — A controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.
- **Serious bodily injury** — Injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of a function of a bodily member, organ or faculty.
- **Weapon** — A dangerous weapon is a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 and ½ inches.

Notification

On the date school personnel make the decision that a disciplinary removal of your child is a change of placement, the LEA must notify you of that decision, and provide you with the Procedural Safeguards notice.

Change in Placement for Disciplinary Reasons

A removal of your child with a disability from your child's current educational placement is a change of placement if:

1. The removal is for more than 10 school days in a row; **or**
2. Your child has been subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than 10 school days in a school year;
 - b. Your child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - c. Of such additional factors as the length of each removal, the total amount of time your child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.

Determination of Setting

The Individualized Education Program (IEP) Team determines the interim alternative educational setting for removals that are **changes of placement**, and removals under the subheadings **Additional Authority** and **Special Circumstances**.

Appeal in General

You may file a due process complaint (see the heading **Due Process Complaint Procedures**) to request a due process hearing if you disagree with:

1. Any decision regarding placement made under these discipline provisions; **or**
2. The manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

Authority of Hearing Officer

A hearing officer that meets the requirements described under the subheading **Impartial Hearing Officer** must conduct the due process hearing and make a decision. The hearing officer may:

1. Return your child with a disability to the placement from which your child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading **Authority of School Personnel**, or that your child's behavior was a manifestation of your child's disability; **or**
2. Order a change of placement of your child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of your child is substantially likely to result in injury to your child or to others.

These hearing procedures may be repeated, if the school district believes that returning your child to the original placement is substantially likely to result in injury to your child or to others.

Whenever you or a school district files a due process petition to request an expedited hearing, all the requirements under the previous headings: **Filing a Due Process Petition, Hearings on Due Process Petitions, and State-Level Appeals** must be followed, except for the timelines and written response.

The timelines are expedited as follows:

The Office of Administrative Hearings must arrange for an expedited due process hearing, which must occur within **20 school days** of the date the hearing is requested and must result in a determination within **10 school days** after the hearing; and

Unless you and the school district agree in writing to waive the resolution meeting, or agree to use mediation, a resolution meeting must occur **within seven (7) calendar days** of the date the school district's Superintendent **or** EC Director received notice of the expedited due process petition. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within **15 calendar days** of the date the school district's Superintendent **or** EC Director received notice of the due process petition.

A party may appeal the decision in an expedited due process hearing in the same way as for decisions in other due process hearings.

Placement during Appeals

When, as described above, you or the school district file a due process complaint related to disciplinary matters, your child must (unless you and the NCDPI or school district agree otherwise) remain in the interim alternative educational setting (IAES) pending the decision of the hearing officer, or until the expiration of the time period of removal as provided for and described under the heading **Authority of School Personnel**, whichever occurs first.

Protections for Children Not Yet Eligible for Special Education and Related Services in General

If your child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that your child was a child with a disability, then your child may assert any of the protections described in this notice.

Basis of Knowledge for Disciplinary Matters

A school district will be deemed to have knowledge that your child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. You expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or to your child's teacher that your child is in need of special education and related services;
2. You requested an evaluation related to eligibility for special education and related services under Part B of IDEA;
3. Your child's teacher or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by your child directly to the school district's director of special education or to other supervisory personnel of the school district; or
4. Your child's behavior and performance, prior to the disciplinary action, clearly and convincingly establish a need for special education

Exception

A school district would not be deemed to have such knowledge if:

1. You have not allowed an evaluation of your child or have refused special education services; or
2. Your child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

Conditions that Apply if there is No Basis of Knowledge

If prior to taking disciplinary measures against your child, a school district does not have knowledge that your child is a child with a disability, as described above under the sub-headings **Basis of Knowledge for Disciplinary Matters** and **Exception**, your child may be subjected to the disciplinary measures that are applied to children without disabilities who engage in comparable behaviors.

However, if a request is made for an evaluation of your child during the time period in which your child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, your child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If your child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by you, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

Referral to and Action by Law Enforcement and Judicial Authorities

Part B of IDEA does not:

1. Prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
2. Prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

Transmittal of Records

If a school district reports a crime committed by a child with a disability, the school district:

1. Must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; **and**
- a. May transmit copies of the child's special education and disciplinary records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA).

5. INDEPENDENT EDUCATIONAL EVALUATIONS (IEE)

34 CFR §300.502 and

NC 1504-1.13

(See page 7)

General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district.

If you request an independent educational evaluation, the school district must provide you with information about where you may obtain an independent educational evaluation and about the school district's criteria that apply to independent educational evaluations.

Definitions

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of the Act.

Right to Evaluation at Public Expense

You have the right to an independent educational evaluation of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you request an independent educational evaluation of your child at public expense, your school district must, without unnecessary delay, either: (a) File a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) Provide an independent educational evaluation at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.
2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an independent educational evaluation, but not at public expense.
3. If you request an independent educational evaluation of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the independent educational evaluation of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.

You are entitled to only one independent educational evaluation of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.

Parent-Initiated Evaluations

If you obtain an independent educational evaluation of your child at public expense or you share with the school district an evaluation of your child that you obtained at private expense:

1. Your school district must consider the results of the evaluation of your child, if it meets the school district's criteria for independent educational evaluations, in any decision made with respect to the provision of a free appropriate public education (FAPE) to your child; **and**
2. You or your school district may present the evaluation as evidence at a due process hearing regarding your child.

Requests for Evaluations by Hearing Officers

If a hearing officer requests an independent educational evaluation of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

School District/ LEA Criteria

If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an independent educational evaluation).

Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

6. REQUIREMENTS FOR UNILATERAL PLACEMENT OF CHILDREN WITH DISABILITIES BY THEIR PARENTS IN PRIVATE SCHOOLS AT PUBLIC EXPENSE

34 CFR §300.148 and NC 1501-6 through NC 1501-8 (See page 7)

General (Placement of Children by Parents if FAPE is at Issue)

Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made a free appropriate public education (FAPE) available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR §§300.131 through 300.144.

Reimbursement for Private School Placement

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education (FAPE) available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. A hearing officer or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by the NCDPI and school districts.

Limitation on Reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. If: (a) At the most recent individualized education program (IEP) meeting that you attended prior to your removal of your child from the public school, you did not inform the IEP Team that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district of that information;
2. If, prior to your removal of your child from the public school, the school district provided prior written notice to you of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; or
3. Upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

1. Must not be reduced or denied for failure to provide the notice if: (a) The school prevented you from providing the notice; (b) You had not received notice of your responsibility to provide the notice described above; or (c) Compliance with the requirements above would likely result in physical harm to your child; and
2. May, in the discretion of the court or a hearing officer, not be reduced or denied for your failure to provide the required notice if: (a) You are not literate or cannot write in English; or (b) Compliance with the above requirement would likely result in serious emotional harm to your child.

7. AVAILABILITY OF MEDIATION

34 CFR §300.506 and NC 1504-1.7

(See page 9)

Definition

Mediation is an informal meeting of the parent and the school led by a neutral third party, the mediator. Mediation is a voluntary process, which the parties themselves control. The mediator helps the parents and school resolve disagreements concerning the child's identification, evaluation, program, or placement. Mediation can help the parties reach agreement about specific issues, as well as build a better working relationship for the future. Mediation can help resolve differences between parents and schools efficiently and effectively. *More information about mediation can be found at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/mediation>.*

General

The EC Division of NCDPI makes mediation available to allow you and the LEA to resolve disagreements involving any matter under IDEA, including matters arising prior to the filing of a due process petition.

Mediation is available to resolve disputes under IDEA, whether or not you have filed a due process petition to request a due process hearing as described under the heading **Filing a Due Process Petition**.

Requirements

The procedures must ensure that the mediation process:

1. Is voluntary on your part and the school district's part;
2. Is not used to deny or delay your right to a due process hearing, or to deny any other rights provided under Part B of IDEA; **and**
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The school district may develop procedures that offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to you, with a disinterested party:

1. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State; **and**
2. Who would explain the benefits of, and encourage the use of, the mediation process to you.

The EC Division keeps a list of people who are qualified mediators and know the laws and regulations relating to the provision of special education and related services. The EC Division must select mediators on a random, rotational, or other impartial basis.

The EC Division is responsible for the costs of the mediation process, including the costs of meetings.

Note: The cost of the mediation process does not include any attorneys' fees, if you and/or the school district bring attorneys to the mediation.

Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district.

If you and the school district resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:

1. States that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding (court case); **and**
2. Is signed by both you and a representative of the school district who has the authority to bind the school district.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.

Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under Part B of IDEA.

Impartiality of Mediator

The mediator:

1. May not be an employee of NCDPI or the school district that is involved in the education or care of your child; **and**
2. Must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district or NCDPI solely because he or she is paid by the EC Division or school district to serve as a mediator.

8. STATE COMPLAINT PROCEDURES

34 CFR §300.152 and NC 1501-10 (See page 9)

Definition

State Complaint - A State complaint is a signed written statement that alleges a school or local educational agency is not following special education law and regulations found in IDEA, Article 9 of Section 115C in the NC General Statutes. This statement is a formal request for the EC Division to investigate the allegation(s) of noncompliance.

More information about State complaints can be found at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/formal-written-complaints>

Differences between the State Complaint and Due Process Procedures

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, the NCDPI, or any other public agency. Only you or a school district may file a due process petition on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to the child. While staff of the EC Division generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended, an impartial hearing officer must hear a due process petition (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45-calendar-days after the end of the resolution period, as described in this document under the heading **Resolution Process**, unless the hearing officer grants a specific extension of the timeline at your request or the school district's request. The State complaint and due process procedures are described more fully below.

The EC Division must develop model forms to help you file a due process petition and help you or other parties to file a State complaint as described under the heading **Model Forms**.

Adoption of State Complaint Procedures in General

Each State Educational Agency must have written procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another State;
2. The filing of a complaint with the NCDPI; **and**
3. Widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Remedies for Denial of Appropriate Services

In resolving a State complaint in which the NCDPI has found a failure to provide appropriate services, the NCDPI must address:

1. The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); **and**
2. Appropriate future provision of services for all children with disabilities.

Minimum State Complaint Procedures Time Limit

The NCDPI must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the NCDPI determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; **and** (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
4. Review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA; **and**
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; **and** (b) the reasons for the NCDPI's final decision.

Time Extension; Final Decision; Implementation

The NCDPI's procedures described above also must:

1. Permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; **or** (b) you and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution.
2. Include procedures for effective implementation of the NCDPI's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; **and** (c) corrective actions to achieve compliance.

State Complaints and Due Process Hearings

If a written State complaint is received that is also the subject of a due process hearing as described under the heading **Filing a Due Process Complaint**, or the State complaint contains multiple issues of which one or more are part of such a hearing, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (for example, you and the school district), then the due process hearing decision is binding on that issue and the NCDPI must inform the complainant that the decision is binding.

A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision must be resolved by the EC Division of the NCDPI.

Filing a Complaint

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

1. A statement that a school district or other public agency has violated a requirement of Part B of IDEA or its implementing regulations in 34 CFR Part 300;
2. The facts on which the statement is based;
3. The signature and contact information for the party filing the complaint; and
4. If alleging violations regarding a specific child:
 - a) The name of the child and address of the residence of the child;
 - b) The name of the school the child is attending;
 - c) In the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
 - d) A description of the nature of the problem of the child, including facts relating to the problem; **and**
 - e) A proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading **Adoption of State Complaint Procedures**.

The party filing the State complaint must forward a copy of the complaint to the school district or other public agency serving the child at the same time the party files the complaint with the NCDPI.

Note: Issues that are not part of federal regulations, Article 9, or the Policies will not be investigated. Examples are: promotion, retention, personnel issues, and discrimination.

Model Forms

The NCDPI has developed model forms to help you to file a due process complaint and to help you and other parties to file a State complaint. However, you are not required to use these model forms. In fact, you can use the model form or another appropriate form, so long as it contains the required information for filing a due process petition or a State complaint.

The model forms are located at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/formal-written-complaints>

9. FILING A DUE PROCESS PETITION 34 CFR §§ 300.507 – 300.518 and NC 1504-1.8 through NC 1504-1.19 (See page 10)

Definition

Due process petition – A form that is filed with the Office of Administrative Hearings and the Superintendent or EC Director of the local LEA.

More information about due process is at <http://ec.ncpublicschools.gov/parent-resources/dispute-resolution/due-process-hearings>

General

You or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child.

Parents **must** file the petition with the Superintendent **or** the EC Director of their school district **and** the Office of Administrative Hearings (OAH).

The due process petition must allege a violation that happened not more than **one year** before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.

The timelines begin when the Superintendent or the EC Director of the local school district receives the petition you filed. If the school district files a due process petition, the timelines begin when you receive it.

The due process petition may be hand-delivered or mailed to your local Superintendent **or** EC Director using your local school district’s mailing address.

<p>The due process petition must be sent to:</p> <p>Chief Hearings Clerk Office of Administrative Hearings 6714 Mail Service Center Raleigh, NC 27699-6714 Phone: 919.431.3000 Fax: 919.431.3100</p>	<p>A <u>copy</u> of your due process petition must be sent to:</p> <p>Consultant for Due Process EC Division, NCDPI 6356 Mail Service Center Raleigh, NC 27699-6356 Phone: 919.807.3969 Fax: 919.807.3755</p>
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The above timeline does not apply to you if you could not file a due process petition within the timeline because:

1. The school district specifically misrepresented that it had resolved the issues identified in the complaint; or
2. The school district withheld information from you that it was required to provide you under Part B of IDEA.

Information for Parents

The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file a due process petition.

Due Process Petition

The due process petition must include:

1. The name of the child;
2. The address of the child’s residence;
3. The name of the child’s school;
4. If the child is a homeless child or youth, the child’s contact information and the name of the child’s school;
5. A description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; **and**
6. A proposed resolution of the problem to the extent known and available to the complaining party (you or the school district) at the time.

Notice Required Before a Hearing on a Due Process Petition

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district’s attorney) files a due process petition that includes the information listed above.

Sufficiency of Petition

In order for a due process petition to go forward, it must be considered sufficient. The due process petition will be considered sufficient (to have met the content requirements above) unless the party receiving the due process petition (you or the school district) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the petition, that the receiving party believes that the due process petition does not meet the requirements listed above.

Within five (5) calendar days of receiving the notification that the receiving party (you or the school district) considers a due process petition insufficient, the hearing officer must decide if the due process petition meets the requirements listed above, and notify you and the school district in writing immediately.

Petition Amendment

You or the school district may make changes to the petition only if:

1. The other party approves of the changes in writing and is given the chance to resolve the issue(s) in the due process petition through the resolution process described under the heading **Resolution Process**; or
2. By no later than five (5) days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the school district) makes changes to the due process petition, the timelines for the resolution meeting (within 15 calendar days of receiving the petition) and the time period for resolution (within 30 calendar days of receiving the petition) start again on the date the amended petition is filed.

LEA Response to a Due Process Petition

If the school district has not sent a prior written notice to you, as described under the heading **Prior Written Notice**, regarding the subject matter contained in your due process petition, the school district must, within 10 calendar days of receiving the due process petition, send to you a response that includes:

1. An explanation of why the school district proposed or refused to take the action raised in the due process petition;
2. A description of other options that your child's Individualized Education Program (IEP) Team considered and the reasons why those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; **and**
4. A description of the other factors that are relevant to the school district's proposed or refused action.

Providing the information in items 1-4 above does not prevent the school district from asserting that your due process petition was insufficient.

Other Party Response to a Due Process Petition

Except as stated under the sub-heading immediately above, **Local Educational Agency (LEA) Response to a Due Process Petition**, the party receiving a due process petition must, within 10 calendar days of receiving the petition, send the other party a response that specifically addresses the issues in the petition.

Resolution Process

Within 15 calendar days of receiving notice of your due process petition, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member or members of the Individualized Education Program (IEP) Team who have specific knowledge of the facts identified in your due process petition. The meeting:

1. Must include a representative of the school district who has decision-making authority on behalf of the school district; **and**
2. May not include an attorney of the school district unless you are accompanied by an attorney.

You and the school district determine the relevant members of the IEP Team to attend the meeting.

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

The resolution meeting is not necessary if:

1. You and the school district agree in writing to waive the meeting; or
2. You and the school district agree to use the mediation process, as described under the heading **Mediation**.

Resolution Period

If the school district has not resolved the due process petition to your satisfaction within 30 calendar days of the receipt of the due process petition (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar-day timeline for issuing a final due process hearing decision, as described under the heading, **Hearing Decisions**, begins at the expiration of the 30-calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Except where you and the school district have both agreed to waive the resolution process or to use mediation, your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

If after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar-day resolution period, request that a hearing officer dismiss your due process petition. Documentation of such efforts must include a record of the school district's attempts to arrange a mutually agreed upon time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to you and any responses received; **and**
3. Detailed records of visits made to your home or place of employment and the results of those visits.

If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint **or** fails to participate in the resolution meeting, you may ask a hearing officer to begin the 45-calendar-day due process hearing timeline.

Adjustments to the 30 Calendar Day Resolution Period

If you and the school district agree in writing to waive the resolution meeting, then the 45-calendar-day timeline for the due process hearing starts the next day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar-day resolution period, if you and the school district agree in writing that no agreement is possible, then the 45-calendar-day timeline for the due process hearing starts the next day.

If you and the school district agree to use the mediation process but have not yet reached agreement, at the end of the 30-calendar-day resolution period the mediation process may be continued until an agreement is reached if both parties agree to the continuation in writing. However, if either you or the school district withdraws from the mediation process during this continuation period, then the 45-calendar-day timeline for the due process hearing starts the next day.

Written Settlement Agreement

If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:

1. Signed by you and a representative of the school district who has the authority to bind the school district; **and**
2. Enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case), in a district court of the United States or through a State complaint.

Agreement Review Period

If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within 3 business days of the time that both you and the school district signed the agreement.

The Child's Placement While the Due Process Petition and Hearing are Pending

Except as provided below under the heading **Procedures When Disciplining Children with Disabilities**, once a due process petition is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and the State or school district agree otherwise, your child must remain in his or her current educational placement.

If the due process petition involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

If the due process petition involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA to Part B of IDEA and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for your child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).

If a State review official in an administrative appeal proceeding agrees with you that a change of placement is appropriate, that placement must be treated as your child's current educational placement where your child will remain while waiting for the decision of any impartial due process hearing or court proceeding.

If your preschool child is found eligible under IDEA and you consent for your child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon.)

10. HEARINGS ON DUE PROCESS PETITIONS

34 CFR §300.511 and NC 1504-1.12

through NC 1504-1.14 and NC 1504-1.16

(See page 10)

Impartial Due Process Hearing

Whenever a due process petition is filed, you or the school district involved in the dispute must have an opportunity for an impartial due process hearing, as described in the ***Due Process Petition*** and ***Resolution Process*** sections.

Impartial Hearing Officer

Note: In NC, the hearing officer is an Administrative Law Judge (ALJ).

At a minimum, the Administrative Law Judge:

1. Must not be an employee of the State Educational Agency/NCDPI or the school district that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer;
2. Must not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
3. Must be knowledgeable and understand the provisions of IDEA, Federal regulations, Article 9 of NC General Statutes 115C and *Policies* pertaining to IDEA, and legal interpretations of IDEA by Federal and State courts; **and**
4. Must have the knowledge and ability to conduct hearings, and to make and write decisions consistent with appropriate, standard legal practice.

Subject Matter of Due Process Hearing

The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process petition, unless the other party agrees.

Timeline for Requesting a Hearing

You or the school district must request an impartial hearing on a due process petition within **one year** of the date you or the school district knew or should have known about the issue addressed in the petition.

Exceptions to the Timeline

The above timeline does not apply to you if you could not file a due process petition because:

1. The school district specifically misrepresented that it had resolved the problem or issue that you are raising in your petition; **or**
2. The school district withheld information from you that it was required to provide to you under Part B of IDEA.

Hearing Rights General

Any party to a due process hearing (including a hearing relating to disciplinary procedures) or an appeal, as described under the sub-heading ***Appeal of Decisions and Impartial Review*** has the right to:

1. Be accompanied and advised by an attorney and/or persons with special knowledge or training about the problems of children with disabilities (NC law does not recognize a non-attorney representing a party at a due process hearing);
2. Present evidence and confront, cross-examine, and require the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been shared with the other party at least five (5) business days before the hearing;
4. Obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
5. Obtain written, or, at your option, electronic findings of fact and decisions.

Additional Disclosure of Information

At least five (5) business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

A hearing officer may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parental Rights at Hearings

You must be given the right to:

1. Have your child present at the hearing;
2. Open the hearing to the public; **and**
3. Have the record of the hearing, the findings of fact, and decisions provided to you at no cost.

Decision of Hearing Officer

The **Administrative Law Judge's** decision on whether your child received a free appropriate public education (FAPE) must be based on evidence and arguments that directly relate to FAPE.

In matters alleging a procedural violation (such as "an incomplete IEP Team"), a hearing officer may find that your child did not receive FAPE only if the procedural violations:

1. Interfered with your child's right to a free appropriate public education (FAPE);
2. Significantly interfered with your opportunity to participate in the decision-making process regarding the provision of a free appropriate public education (FAPE) to your child; **or**
3. Caused your child to be deprived of an educational benefit.

None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district to comply with the requirements in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536).

Timelines and Convenience of Hearings and Reviews

The Office of Administrative Hearings must ensure that no later than 45 days after the expiration of the 30-day resolution period or, as described under the sub-heading **Adjustments to the 30-day Resolution Period**, no later than 45 days after the expiration of the adjusted time period for resolution, a final decision is reached in the hearing and a copy of the decision is mailed to the school district and you, or your attorney if you are represented by counsel.

A hearing officer may grant specific extensions of these timelines, if you or the school district make a request for a specific extension of the timeline.

Each hearing involving oral arguments must be conducted at a time and place that is reasonably convenient to you and your child.

Separate Request for a Due Process Hearing

Nothing in the procedural safeguards section of the Federal regulations under Part B of IDEA (34 CFR §§300.500 through 300.536) can be interpreted to prevent you from filing a separate due process petition on an issue separate from a due process petition already filed.

Findings and Decision to State Advisory Panel and General Public

The EC Division after deleting any personally identifiable information, must:

1. Provide the findings and decisions in the due process hearing or appeal to the State special education advisory panel; **and**
2. Make those findings and decisions available to the public.

Construction Clause

None of the provisions described above can be interpreted to prevent a hearing officer from ordering a school district to comply with the requirements in the Procedural Safeguards section of the federal regulations under IDEA. None of the provisions under: **Filing a Due Process Petition, Model Forms, Resolution Process, Impartial Due Process Hearing, Hearing Rights, and Hearing Decisions** can affect your right to file an appeal of the due process hearing decision with the EC Division.

11. STATE-LEVEL APPEALS 34 CFR §300.514 and NC 1504-1.15 through NC 1504-1.16 (See page 10)

Finality of Hearing Decision

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, unless appealed. Either party involved in the hearing (you or the school district) may appeal the decision to the EC Division within 30 days of receipt of the decision from the Office of Administrative Hearings.

Appeal of Decisions and Impartial Review

If a party (you or the school district) disagrees with the findings and decision in the due process hearing, the party may appeal to the EC Division.

If there is an appeal, the EC Division must appoint an impartial review officer to conduct an impartial review of the findings and decision appealed.

The review officer conducting the review must:

1. Examine the entire hearing record;
2. Ensure that the procedures at the hearing were consistent with the requirements of due process;
3. Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described previously under the sub-heading **Hearing Rights** apply;
4. Give the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
5. Make an independent decision on completion of the review; **and**
6. Give you and the school district a copy of the written or, at your option, electronic findings of fact and decisions.

Findings and Decision provided to the State Advisory Panel and General Public

The State Educational Agency, after deleting any personally identifiable information, must:

1. Provide the findings and decisions of the appeal to the State Advisory Panel; **and**
2. Make those findings and decisions available to the public.

Note: The State Advisory Panel in NC is the Council on Educational Services for Exceptional Children.

Finality of Review Decision

The decision made by the reviewing official is final unless you or the school district brings a civil action, as described under the heading **Civil Actions**, including the time period in which to file those actions.

Timelines and Convenience of Hearings and Reviews

The EC Division must ensure that not later than 45 calendar days after the expiration of the 30-calendar-day period for resolution meetings or, as described under the sub-heading **Adjustments to the 30-calendar-day resolution period**, not later than 45 calendar days after the expiration of the adjusted time period:

1. A final decision is reached in the hearing; **and**
2. A copy of the decision is mailed to you and the school district.

The EC Division must ensure that not later than 30 calendar days after the receipt of a request for a review:

1. A final decision is reached in the review; **and**
2. A copy of the decision is mailed to you and the school district.

A review officer may grant specific extensions of time beyond the periods described above (45 calendar days for a hearing decision and 30 calendar days for a review decision) if you or the school district make a request for a specific extension of the timeline.

Each hearing and review involving oral arguments must be conducted at a time and place that is reasonably convenient to you and your child.

12. CIVIL ACTIONS 34 CFR §300.516 and NC 1504-1.17 (See page 11)

General

Any party (you or the school district) who does not agree with the findings and decision in the State-level review has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

Time Limitation

The party (you or the school district) bringing the action shall have 30 days from the date of the decision of the State review officer to file a civil action in state court and 90 days in federal court.

Additional Procedures

In any civil action, the court:

1. Receives the records of the administrative proceedings;
2. Hears additional evidence at your request or at the school district's request; and
3. Bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Under appropriate circumstances, judicial relief may include reimbursement of private school tuition and compensatory education services.

Jurisdiction of District Courts

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

Rule of Construction

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA.

This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process petition; resolution process, including the resolution meeting; and impartial due process hearing procedures) before going directly into court.

13. ATTORNEYS' FEES 34 CFR §300.517 and NC 1504-1.18 (See page 11)

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you, if you prevail (win).

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency (NCDPI) or school district, **to be paid by your attorney**, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; or (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing State Educational Agency (NCDPI) or school district, **to be paid by you or your attorney**, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding (hearing).

Note: North Carolina's Administrative Law Judges cannot award attorneys' fees.

Award of Fees

A court awards reasonable attorneys' fees as follows:

1. Fees must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
2. Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement is made to you if:
 - a. The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
 - b. The offer is not accepted within 10 calendar days; and
 - c. The court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

3. Fees may not be awarded relating to any meeting of the Individualized Education Program (IEP) Team unless the meeting is held as a result of an administrative proceeding or court action.
4. Fees also may not be awarded for mediation as described under the heading *Availability of Mediation*.

A resolution meeting, as described under the heading *Resolution Process*, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:

1. You, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
2. The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
3. The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or
4. The attorney representing you did not provide to the school district the appropriate information in the due process petition as described under the heading *Due Process Petition*.

However, the court may not reduce fees if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.

Appendix I: Acronyms, Definitions, and Information

Several words used throughout the Procedural Safeguards have been defined according to the Federal Regulations and the Policies. The Federal Regulations contain a more extensive list of definitions, beginning with 34 CFR § 300.4. They can be found at <http://idea.ed.gov/explore/home>. Acronyms that are used often in special education are listed for you. Not all of these acronyms and definitions are used in the Procedural Safeguards.

1. **§** — § means Section.
2. **Administrative Law Judges (ALJs)** — In North Carolina, ALJs are the people who make decisions in due process cases that go to hearings.
3. **Article 9** — The North Carolina State law governing special education is Article 9 of Chapter 115C of the North Carolina General Statutes.
4. **Areas of Disability** — Following are the areas of disability under IDEA and the acronyms used by the State and LEAs:
 - AU**.....Autism Spectrum Disorder
 - DB**.....Deafness-Blindness
 - DD**.....Developmental Delay
 - DF**.....Deafness
 - ED**.....Serious Emotional Disability (Sometimes the acronym SED is used.)
 - HI**.....Hearing Impairment (Also called hard of hearing.)
 - ID**..... Intellectual Disability
 - MU**..... Multiple Disabilities
 - OHI**.....Other Health Impairment
 - OI**.....Orthopedic Impairment
 - SI**.....Speech and/or Language Impairment (Sometimes the acronym SLI is used.)
 - SLD**..... Specific Learning Disabilities (Sometimes the acronym LD is used. Dyslexia, dyscalculia, and dysgraphia are types of specific learning disabilities.)
 - TBI**.....Traumatic Brain Injury
 - VI**.....Visual Impairment, including Blindness
5. **Children’s Developmental Services Agency (CDSA)** — The lead agency in North Carolina for infants and toddlers, ages birth through two (0–2).
6. **Charter Schools** — In North Carolina, charter schools are public schools and must follow the same federal regulations and Policies as other public schools for children with disabilities.
7. **Child with a Disability (CWD) or Student with a Disability (SWD)** — A child evaluated in accordance with Policies 1503-2 through 1503-3 as having one of the disabilities listed above and who, by reason of the disability, needs special education and related services.
8. **Code of Federal Regulations (CFR)** — This is where you will find the federal regulations for the IDEA.
9. **Complainant** — An individual or organization who has submitted a State complaint to the North Carolina Exceptional Children Division.
10. **Day** — Calendar day unless otherwise specified.
 - Business day — Monday through Friday, except Federal and State holidays.
 - School day — Any day school is in session for students, including a partial day. It has the same meaning for students with disabilities as it does for nondisabled students.
11. **Due Process Hearing** — A due process hearing is a formal hearing, which is guaranteed under federal and state special education law, before an impartial Administrative Law Judge.
12. **Exceptional Children Division (EC Division)** — The EC Division is responsible for ensuring the implementation of federal and state laws about special education.
13. **Evaluation** — The procedures used to determine whether a child has a disability and the nature and extent of the special education and related services that the child may need.
14. **Family Educational Rights and Privacy Act (FERPA)** — The law that protects the confidentiality of educational records.
15. **Facilitated IEP (FIEP) Team Meeting** — IEP Facilitation is a process using an impartial facilitator to assist the IEP Team members in communicating more effectively and keeping the focus on student outcomes. An IEP facilitator is provided at no cost to the parent(s) or the LEA (school/school district).
16. **Free appropriate public education (FAPE)** — Education and related services are based on the unique needs of the child with a disability. Special education and related services must be provided without cost to the parents and according to standards of the Public Schools of North Carolina, Department of Public Instruction, for children in preschool, elementary, secondary, or public charter schools in the State and according to an individualized education program (IEP).
17. **Independent educational evaluation (IEE)** - An evaluation conducted by a qualified examiner who is not employed by the LEA responsible for the education of your child.
18. **Individuals with Disabilities Education Improvement Act (IDEA)** — IDEA is the federal special education law.
19. **Individualized Family Services Plan (IFSP)** — An IFSP is the plan for infants-toddlers with disabilities and their families.
20. **Individualized Education Program (IEP)** — An IEP is a written statement for a child with a disability that is developed, reviewed, and revised in accordance with the federal regulations and Policies through which the child receives a FAPE.
21. **Infant-Toddler Program (ITP)** — ITP is the program that serves children with disabilities from birth through two years (0–2).
22. **Interim Alternative Educational Setting (IAES)** — A child with a disability may be placed in another educational setting for disciplinary reasons.
23. **Least Restrictive Environment (LRE)**— The IEP Team must consider educating a child with a disability in an environment that is appropriate for that child. Some children are educated in a more restrictive environment than others due to the significance of their needs.
24. **Local Educational Agency (LEA)** — Any school program conducted by a public school or agency and approved by the North Carolina Department of Public Instruction. In North Carolina, this includes county, city, and charter schools and State-operated programs.
25. **Mediation** — A voluntary process in which an impartial individual (mediator) assists the parties in having a full discussion and reaching an agreement. A mediator may be requested through the EC Division at no cost to the parent(s) or the LEA (school/school district).
26. **Multi-Tiered System of Support (MTSS)** — A multi-tiered framework which promotes school improvement through engaging, research-based academic and behavioral practices. NC MTSS employs a systems approach using data-driven problem-solving to maximize growth for all.
27. **NC Department of Public Instruction (NCDPI)** — NCDPI is North Carolina’s State Educational Agency (SEA).

28. **Parent** — IDEA uses the term parent to mean:
- a. A biological or adoptive parent of a child;
 - b. A foster parent, unless State law, regulations or contracts with a State or local entity prohibits a foster parent from acting as a parent. A foster parent may serve as parent if the biological parent’s rights to make educational decisions have been terminated by the Court.
 - A therapeutic foster parent cannot serve as parent.
 - c. A guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, but not the State if the child is a ward of the State;
 - d. A person acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives or a person who is legally responsible for the child’s welfare; or
 - e. A surrogate parent who has been appointed in accordance with the federal regulations at 34 CFR §300.515.

If a Court Order identifies a specific person or persons in the list above to act as the parent of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent for purposes of this document.

- a. Except as provided above, when more than one party is qualified to act as a parent, the biological or adoptive parent must be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child; and
 - b. The term parent does not include a State agency or local agency, such as the Department of Social Services, or one of its employees if the child is in the custody of such agency.
29. **Private Schools** — Non-profit private schools, including religious schools or facilities that meet the definition of elementary school or secondary school in North Carolina. Registered home schools are recognized as private schools in North Carolina.
30. **Part B** - The part of the Individuals with Disabilities Education Improvement Act that is the special education law for children ages three through twenty-one (3–21).
31. **Part C** — The part of the Individuals with Disabilities Education Improvement Act that is the special education law for children ages birth through two (0–2).
32. **Placement** — In special education placement is used in two different ways:
- a. That a child has been determined to be eligible for special education and related services; and
 - b. The level on the continuum of services, which means the amount of time the student will be removed from his or her nondisabled peers.
- Historically, we have referred to “placement” as points along the continuum of placement options available for a child with a disability, and “location” as the physical surrounding, such as the classroom. It is the Department’s longstanding position that maintaining a child’s placement in an educational program that is substantially and materially similar to the former placement is not a change in placement.
33. **Public Agency** — A State agency that is responsible for providing education to children with disabilities. It includes the NCDPI; LEAs; Department of Health and Human Services; Department of Correction; and Department of Juvenile Justice; to the extent the public agency may be responsible for the provision of special education and related services and/or their actions impact upon a child receiving a free appropriate public education.
34. **Prior Written Notice (PWN)** — The PWN is described in Section 2 of this document. LEAs are not required to use the state form (DEC 5) and may use their own. An LEA may write a letter to you as the prior written notice.
35. **Reevaluation** — This is a review process and does not necessarily mean testing.
36. **Related Services** — These are supportive services that are required to assist a child with a disability to benefit from special education.
37. **Resolution Session** — When a due process petition is filed, the LEA must schedule a resolution session to try and resolve the dispute before a due process hearing.
38. **State Advisory Panel (SAP)** — In North Carolina, the State Advisory Panel is called the Council on Educational Services for Exceptional Children. The Council advises the State Board of Education on issues about the unmet needs of children with disabilities.
39. **Special Education (SPED)** — SPED is specially designed instruction, provided at no cost to the parent, to meet the unique needs of a child with a disability.
40. **Special Education Laws** — These laws include the federal statute, the Individuals with Disabilities Education Improvement Act (IDEA); accompanying federal regulations; Article 9 of NC General Statutes 115-C; and North Carolina Policies Governing Services for Children with Disabilities.
41. **State Complaint** — A signed, written complaint stating that a public agency has violated a procedural requirement of the Individuals with Disabilities Education Improvement Act (IDEA) or the North Carolina laws about special education.
42. **State Educational Agency (SEA)** — The North Carolina Department of Public Instruction (NCDPI).

Notes: