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June 6, 2011

Via Facsimile and Federal Express, Next Day Delivery

Wendy Stoica, Asst. Dir. Procedural Safeguards
Ohio Department of Education
Office for Exceptional Children
25 S. Front Street, Mail Stop 202
Columbus, OH 43215

Complaint filing pursuant to authority given to states under 34 C.F.R. §§ 300.151-300.153.

Primary Contact and
Complainant information:

"Parents of Student A"
"Student A"

"Parents of Student B"
"Student B"

Additional Complainants
contact information:

"Parents of Student C"
"Student C"

"Parent of Student D"
"Student D"

"Parents of Student E"
"Student E"

"Parent of Student F"
"Student F"

"Parents of Student G"
"Student G"

"Complainant H"

"Parents of Students I, K, M, N" "Parents of Students J & L"

"Student I"

"Student J"

"Student K"

"Student L"

"Student M"

"Student N"

"Complainant O"

"Complainant O"

School District of Residence: Upper Arlington City Schools
1950 North Mallway Drive
Upper Arlington, OH 43221

(Phone) 614-487-5000
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This complaint is being submitted on behalf of the above-identified residents ("Complainants") of the Upper Arlington City School District ("District" or "Upper Arlington"). Complainants are parents of children in the District diagnosed with Dyslexia, or, prior students with disabilities that have either left the District to attend schooling elsewhere or graduated from Upper Arlington High School. The allegations that follow are supported by attached affidavits from many of the Complainants and are incorporated herein as if restated. When read as a whole, their powerful, almost identical, statements clearly evidence the District's systemic failures.

Introduction and Statement of Allegations:

Upper Arlington City School District: (A) fails to meet the Response to Intervention ("RTI") requirements for evaluating and identifying students suspected of having Specific Learning Disabilities, (B) uses the intervention process to delay evaluations and the identification of students with Specific Learning Disabilities; and, thereby, (C) fails to meet its Child Find obligations.

The District has implemented a policy establishing a pattern of "interventions"¹ offered to students exhibiting basic academic difficulties. The system places students who underperform in Reading, Writing and/or Mathematics into a revolving door of instruction, with a variety of different learning targets. Instead of initiating a systematic, scientifically-based process of assessing a child's needs, progress, and outcomes, parents are simply asked to provide permission to have their child placed into "intervention." Typically, minimal to no records of student performance within the "intervention" are maintained or shared with the parents. Complainants allege that on average, their children were kept in "intervention" for three (3) years before being evaluated. Evaluations were only performed if initiated by parents, and typically, only after parents retained private evaluations or

¹ The use of the term "interventions" is borrowed from the District's vernacular. In communications to parents, the District will use the broad term "intervention" to include a variety of differing types of instruction. The District's use of the term is not intended to imply involvement in a structured RTI process.

advocacy services. This universal system has been used by the District to inappropriately bypass referral, identification and evaluation procedures mandated by the Individuals with Disabilities Education Act ("IDEA").

A. Description of the Problem

The Complainants hereby allege that upon their information and belief, the Upper Arlington City School District has established a pattern and practice of willful violations of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*, by:

- (1) Failing to properly identify and evaluate students with disabilities under the category of Specific Learning Disability, as required by 20 U.S.C. § 1414(b)(6), 34 C.F.R. § 300.307, OAC § 3301-51-01(B)(10)(d)(ii)(x)(a), and denying to eligible children the protections, educational rights and procedural safeguards afforded by IDEA, 20 U.S.C. § 1412(a);
- (2) Using their "intervention" process to delay evaluations in violation of OAC §3301-51-06(A)(4).
- (3) In failing to evaluate and identify students with specific learning disabilities, the District failed to meet its Child Find obligations, 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111, and denied to eligible children the protections, educational rights and procedural safeguards afforded by IDEA, 20 U.S.C. § 1412(a);

These violations have been uncovered following a series of Complaints undertaken on behalf of several of the identified Complainants residing in the Upper Arlington City School District and as a result of these families meeting and exchanging stories of their individual experiences while forming the Upper Arlington – Kids Identified with Dyslexia (UA-KID) organization. Said Complainants have alleged the failure of the District to appropriately identify and evaluate students suspected of having Specific Learning Disabilities ("SLD").²

Allegation 1: Upper Arlington City School District fails to meet the Response to Intervention requirements for evaluating and identifying students suspected of having Specific Learning Disabilities.

The Ohio Operating Standards indicate that a "child with a disability" is defined as "a child evaluated in accordance with rule 3301-51-06 of the Administrative Code as having a cognitive disability (mental retardation), a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this rule as 'emotional disturbance'), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services." OAC § 3301-51-01(B)(10). Specifically, Upper Arlington fails to identify students suspected of being a 'child with a disability' in the area of 'specific learning disability.' A student suspected of having a specific learning disability would exhibit characteristics of "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability

² This complaint is intending to supplement, not supplant, any individual remedies or complaints pursued by specific families. This complaint is focused on systemic, wide-spread concerns and resolutions and not remedies for individual students.

to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain function, dyslexia, and developmental aphasia." OAC § 3301-51-01(B)(10)(d)(ii)(x)(a).

Upper Arlington City School District fails to ensure that initial evaluations are conducted for children suspected of having a specific learning disability. OAC §3301-51-06(A)(1) ("Each school district shall adopt and implement written policies and procedures, approved by the Ohio Department of Education, Office for Exceptional Children, to ensure that a referral process is employed to determine whether or not a child is a child with a disability. *The school district of residence shall ensure that initial evaluations are conducted* and that reevaluations are completed.")(emphasis added). Although Upper Arlington has developed written procedures for the implementation of the Response to Intervention method, see Board Policy 2460 (attached), it fails to implement that policy in a method that meets the minimum guidelines as specified in Ohio's Operating Standards. OAC §3301-51-06(H)(3)(f). Students who meet the Specific Learning Disability profile should be evaluated for the purposes of determining the presence of a 'specific learning disability.' Systematically, students with diagnoses of Dyslexia, let alone those merely "exhibiting characteristics of" are not evaluated.

Indeed, despite its own Board policy, the District does not use a "Response to Intervention" model, and instead has proposed that "Response to Instruction" is more appropriate terminology to describe their process. According to documents provided by the District pursuant to a public records request, the "Response to Intervention" committee, formed during the 2009-10 school year, succeeded in redefining the terminology and proposing a vague outline of "essential elements" for a "Response to Instruction" model. Not only did the committee fail to further the District's ability to comply with federal and state Response to Intervention protocols, but Melissa Gordon, Upper Arlington's Director of Intervention Services, had an annual evaluation in the 2009-10 school year that indicated the goal of developing a plan for the identification of SLD students had been "taken off the table" as it was no longer a state requirement.³ Mrs. Gordon further indicated that the District employs "a modified RTI pattern of strengths and weaknesses profile to identify students with SLD." Curiously enough, when recently asked about this approach, Stacie Lang Shouse, a school psychologist at Jones Middle School could not reference any District manuals or documents referencing that language and had no understanding of the meaning behind the statement. Specifically, Upper Arlington's "intervention" process fails in the following ways:

- The "interventions" provided are not scientifically-based and are not provided at appropriate levels of intensity, frequency, duration, and integrity (relative to the student's needs). OAC §3301-51-06(H)(3)(d)(ii).
- Upper Arlington fails to include parents if/when convening an educational team to conduct any of the activities associated with the intervention process. OAC §3301-51-06(H)(2)-(3).
- If meetings occur with educational teams that do not include parents, Upper Arlington otherwise fails to share or provide any documentation of assessments or intervention decisions made pursuant to the process. OAC §3301-51-06(H)(3).
- Upper Arlington uses subjective and technically-inadequate assessment procedures to assess a child's progress in the intervention program offered. OAC §3301-51-06(H)(3)(d)(iii).

³ Regardless of the need to develop an RTI program to meet state requirements, the District is required to implement one as its system for identifying students suspected of having SLD, having adopted it as Board Policy.

- Intervention assessments are not reported or shared with the parents. OAC §3301-51-06(H)(3)(d)(iii).

- Intervention assessments are not analyzed to determine whether a discrepancy is present between: (a) the actual and expected performance in the child's rate of progress in developing the skill, or (b) the child's level of performance on measures assessing one or more of the academic areas listed above. OAC §3301-51-06(H)(3)(d)(iv). More simply, the student's response to the "interventions" is never determined.

Upper Arlington fails to use the process identified in its Board Policy as a foundation for referrals for initial evaluations under IDEA. The District fails to identify a student as a child with a disability when the child fails to make sufficient progress to meet age or state-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression/spelling, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation or mathematics problem-solving. OAC §3301-51-06(H)(3)(b). Not only is it inappropriate of Upper Arlington to fail to evaluate these students, but it also fails to maintain or use data from interventions to determine eligibility for special education services. OAC §3301-51-06(A)(3) ("*Each school district shall use data from interventions to determine eligibility for special education services, appropriate instructional practices, and access to the general curriculum.*") (emphasis added). Even if a child fails to make adequate progress under the "intervention" model, the District fails to refer the child for an eligibility review under IDEA.

Allegation 2: Upper Arlington City School District uses their "intervention" process to delay evaluations and the identification of students with Specific Learning Disabilities.

Upper Arlington consistently and unnecessarily requires students to engage in lengthy "intervention" processes prior to evaluating or determining a child eligible for special education services. OAC §3301-51-06(H)(3)(d)(v); OAC §3301-51-06(A)(4) ("*A school district may not use interventions to delay unnecessarily a child's being evaluated to determine eligibility for special education services. If such interventions have not been implemented prior to referral for evaluation, appropriate interventions should be implemented during the same sixty-day time frame during which the school district conducts a full and individual evaluation.*") (emphasis added).

Upper Arlington is consistently placing children in "interventions" and leaving them there for multiple years, often without measuring or reporting progress to parents. This is not an isolated event, but is a systematic, wide-spread (and ineffective) instructional model. The District has gone so far as to establish "Entrance Criteria" and "Exit Criteria" to be used as guidelines for recommending one of their common "interventions," Orton-Gillingham instruction. (See attached). The "Entrance Criteria" requires a student to demonstrate academic deficiencies of 1-2 years below grade level in Reading fluency, Spelling, and Word recognition/decoding in order to qualify for the instruction. Unfortunately, Complainants' children were routinely given this instruction (by its definition evidencing the District's knowledge of the presence of severe academic delays) without referral to an IAT process, or for an initial evaluation. By the time children in Upper Arlington meet the "entrance criteria" for Orton-Gillingham, their deficits are at a level that the District should be conducting initial evaluations. An initial evaluation should not be delayed by being placed in "interventions" for another 1-2 years.

Additionally, the extent to which Upper Arlington uses "interventions" to delay assessments is contained squarely within its "Orton-Gillingham Progression of Services Guidelines, Fall 2010" (see attached). Most disturbingly, Upper Arlington clearly states that if a child is in first grade and "has g

known diagnosis of Dyslexia," it will implement its formula of interventions for up to three years with no referral for disability services. (see attached, emphasis added). The Complainants' experiences distinctly parallel this "progression" of "interventions" and illustrate the District's use of this process to delay referring students for IDEA eligibility. Unfortunately, as a result of consistently failing to identify students suspected of having Specific Learning Disabilities, and using their intervention process to delay initial evaluations, the District also fails to meet its child find obligations.

Allegation 3: As a result of Upper Arlington's failures to meet the Response to Intervention requirements for evaluating and identifying students suspected of having Specific Learning Disabilities, and its use of the "intervention" process to delay evaluations and the identification of students with Specific Learning Disabilities, the District fails to meet its Child Find obligations.

Upper Arlington City School District systemically fails to identify, refer and evaluate students suspected of having a disability. 20 U.S.C. §1412(a)(3); OAC §3301-51-03(B)(3)(a); 34 C.F.R. § 300.111 (c)(1) ("All children with disabilities residing in the State and who are *in need of special education* and related services must be identified, located and evaluated... *Child find must also include children who are suspected of being a child with a disability and in need of special education*, even though they are advancing from grade to grade.") (emphasis added).

Upper Arlington consistently violates child find policies under state and federal law as it fails to identify and evaluate students either (a) clearly suspected of having a disability, or (b) already diagnosed with a disability by a private evaluator. Upper Arlington systematically violates child find procedures as the district offers students "interventions," but yet fails to implement mandated child find procedures to identify and evaluate these same students as "students with disabilities." Instead, students are placed in a cycle of "interventions" that are not individualized, fail to include parent participation, are not measured for success, and can last upwards of 3-4 years with no referral for special education intervention. In fact, it is parents, who after 3-4 years of watching their children continue to exhibit significant academic deficits, make the initial referrals for evaluations or seek private assessments because of the Districts' failure to evaluate. Not one of the Complainants had the District refer his/her child for an initial evaluation based upon academic deficits.

Upper Arlington City School District, through the systemic application of a spurious "intervention" process, fails to meet its Child Find obligations. It does so by failing to implement an appropriate process of evaluating and identifying students suspected of having Specific Learning Disabilities, including an appropriate, scientifically-based Response to Intervention model and by using an "intervention" process to delay the evaluation and identification of students with Specific Learning Disabilities.

B. Date(s) of Violation

It is alleged that these violations have occurred over an extensive period. The systemic and pervasive nature of these violations has only recently been discovered. Complainants recognize the one-year limitation on bringing Complaints to the Ohio Department of Education, but assert that the violations are ongoing, continue to this day, and that any limitation on the time for filing Complaints should be tolled in light of the recent discovery of the issues. Complainants assert that they brought this Complaint within one year from their discovery of the systemic and universal nature of the violations.

C. Proposed Resolution to the Problem

These allegations are taken from facts uncovered during the course of individual complaints and as a result of these families meeting and exchanging stories of their individual experiences while forming the UA-KID organization. As such, there are several individuals with access to documentation and/or information that can be used to corroborate this Complaint. Complainants request the opportunity to meet individually with the Ohio Department of Education, Office for Exceptional Children representative assigned to investigate this matter. Additionally, Complainants believe that other families, in similar situations, have had the same or similar experiences. They respectfully request that the representative assigned to investigate this matter do so in a manner that would uncover the extent of the District's use of their "intervention" model to deny or delay the identification of students with Specific Learning Disabilities. To wit, they request that the representative review:

- The number of children, from grades K-5, identified by each elementary school building "Literacy team" during the 2010-11 school year as being in need of "intervention;"
- The number of children, from grades K-5, receiving programming services in one or more of the "interventions" designed by the District during the 2010-11 school year;
- A review of the average length of time (in years) children are enrolled in "interventions;"
- The number of children exited from "intervention" during the 2010-11 school year;
- The number of children served by an Intervention Assistance Team plan during the 2010-11 school year compared to the above information;
- The number of children, from grades K-5, receiving initial evaluations during the 2010-11 school year under a suspected disability of SLD compared to the above information;
- The data and progress monitoring system employed by the District and how the information is presented and/or shared with parents;
- The protocol employed by the District to determine if/when a child is referred for special education assessment under IDEA; and
- The extent to which the Board's Response to Intervention policy (Board Policy 2460) is undermined by the administration's "Response to Instruction" program and its definition of "a modified RTI pattern of strengths and weaknesses profile to identify students with SLD."

Complainants believe that key and critical information would be uncovered by a review process inclusive of the above information. Finally, we ask that the representatives review not only the files of students recently identified as Specific Learning Disabled, but also the files of those students engaged in the Interventions Assistance Team process and those receiving "interventions" without the benefit of inclusion in the Intervention Assistance Team or IDEA identification procedures.

Complainants believe that the following corrective actions steps are needed to remedy the systemic violations alleged in this filing:

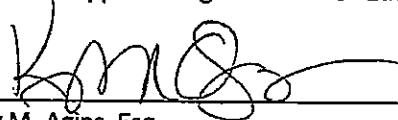
- Continuing education outlining Child Find, Evaluation/Identification procedures, and characteristics of a variety of Specific Learning Disabilities should be conducted with all District employees, and provided by third party independent experts on each topic.
- Immediate discontinuation of any and all policies and guidelines that do not adhere to a scientifically-based RTI process, and/or have the effect of denying or delaying the individual evaluation of students for eligibility under IDEA.

- The Board and Administration should be required to institute a sustained, multi-year, comprehensive set of RTI implementation activities, led by an independent, expert, third-party individual or organization providing high-quality technical assistance that contributes to the District's implementation of a comprehensive Response to Intervention framework that adheres to all required components of the RTI process as identified in Ohio Administrative Code § 3301-51-06(H).
- The Board and Administration should create and sign a policy statement acknowledging the rights of students with disabilities to be identified and served appropriately under IDEA and reasserting the District's commitment to doing the same.
- A recommendation should be made to the Upper Arlington Board of Education that individuals responsible for the systemic violations should be reviewed and subject to discipline in a progressive discipline system, instituted for any and all employees found to be in violation of IDEA. The system should include more severe penalties for a willful violation of student or parent educational rights.

D. List of School officials with whom you have been in contact regarding these issues

Complainants have made several attempts to work with the District in resolving these allegations, both individually and through advocacy efforts with UA-KID. One individual with knowledge of this situation, through documents and Board meetings, but who has refused to meet with individual parents and/or UA-KID is Dr. Jeffrey Weaver, Superintendent. Complainants have spoken with Melissa Gordon, Director of Intervention Services; Deborah Binkley, Assistant Superintendent; Paula White, Elementary Coordinator for Intervention Services; Shawn Strohl, Middle School Coordinator of Intervention Services; Lauren Kowalski, EIS Coordinator; Kate Drugan, Teacher Leader (K-3 Math and Literacy); Julie Wright, Teacher Leader (4-12 Literacy, K-12 Social Studies); Marjory Pizzuti, President of Upper Arlington Board of Education; Robin Comfort, Vice-President of Upper Arlington Board of Education; Gloria Heydlauff, Member of Upper Arlington Board of Education; Robert Arkin, Member of Upper Arlington Board of Education; and several building-level administrators, principals, school psychologists, intervention specialists and related services personnel. Members of UA-KID sought meetings with William Catalano, the fifth Member of the Upper Arlington Board of Education, but he was unresponsive.

Submitted on behalf of Complainants by:



Kerry M. Agins, Esq.
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cc: Dr. Jeffrey W. Weaver, Superintendent of Upper Arlington City School District
 Brenda Louisin, Louisin Child Advocacy

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of)
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)

Complaint
Affidavit in Support of Complaint

State of Ohio)
)
County of Franklin)

NOW COMES AFFIANT, ^{Parent of} "Student A", being first duly sworn in accordance with
law, deposes and states as follows:

- 1. My name is ^{Parent of} "Student A" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
- 2. My daughter, "Student A", currently attends Barrington Elementary School, a school in the Upper Arlington School District.
- 3. ^{Student A} is nine years old and is currently a third grade student.
- 4. ^{Student A} began exhibiting difficulty learning to read in kindergarten at Barrington Elementary School.
- 5. During her kindergarten year, ^{Student A} received Phonemic Awareness two times per week for 30 minutes each session. I did not learn that ^{Student A} was a part of this intervention until her Individualized Education Plan (IEP) meeting held in Spring, 2011, three years after her kindergarten year, when it was listed as a previously received intervention in the Profile section of her IEP. To my knowledge, during this time, her progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student A} was responding to this intervention services or the

progress.

7. At the conclusion of ^{Student} A's first grade year, my wife, ^{Parent of Student} A, approached ^{Student} A's teacher and questioned whether ^{Student} A should be tested to see if she is a child with a disability due to her ongoing struggles with reading and writing. ^{Parent of Student} A was told that students "level out" at the end of second grade and we should wait to see if ^{Student} A's abilities are just developing slower than others or if there might be a real disability.
8. When ^{Student} A entered second grade, we again received a call from her teacher notifying us that ^{Student} A continued to need extra help in reading and that she would be able to receive intervention services. Following this call, we received another letter from the school indicating that she was eligible to receive intervention services in reading and writing. She was placed into the Leveled Literacy Intervention System and received services through this program five times per week for 30 minutes per session in a small group. During this school year, I was never notified of what interventions ^{Student} A was receiving or the frequency of the intervention groups. To my knowledge, during this time, her progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student} A was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} A's progress.
9. Despite the continued interventions during her second grade year, ^{Student} A continued to struggle. In January 2010, ^{Parent of Student} A again asked ^{Student} A's teacher if ^{Student} A should be tested to see if she had a disability due to her continued struggles in reading. Instead of initiating any academic testing, ^{Parent of Student} A was told to take ^{Student} A to a doctor to check her diet.

results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} A's' progress.

6. When ^{Student A} entered first grade, we received a call from her teacher to notify us that ^{Student A} needed some extra help in reading and that the school was so glad they could provide this support through an intervention group. After this phone call, we received a letter from her school indicating that she was eligible to receive intervention services in the reading and writing. She began receiving intervention services through the Reading Recovery program on August 26, 2008. She continued in this program until February 4, 2009, for a total of 20 weeks. While in the Reading Recovery program she received 1:1 instruction for 30 minutes per session, five days per week. During this time, the Reading Recovery teacher told my wife, ^{Parent of Student A}; that ^{Student A} was the most difficult student she has taught in 13 years of teaching and that ^{Student A} should be medicated. The teacher never elaborated on this comment and did not indicate why ^{Student A} was so difficult to teach. After February 4, 2009, ^{Student A} transferred to the Reading/Writing Intervention program utilizing the Touchphonics program and leveled books. She received this program 4 days per week for 35 minutes per session in a small group. During this school year, I was never notified of what interventions ^{Student A} was receiving, the frequency of the intervention groups, or that her intervention program changed during the school year and the reasons behind this change. To my knowledge, during this time, her progress in either program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student A} was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding ^{Student A}'s

and speech habits and to get her eyes checked. It was also suggested that we seek an Attention Deficit Hyperactivity Disorder assessment for ^{Student} A and seek to place her on medication. Based upon this recommendation, my wife and I had ^{Student} A's eyes tested which resulted in us learning that she did need glasses for reading. We also had ^{Student} A tested for Attention Deficit Hyperactivity Disorder in February 2010. This testing was completed by Dr. Patty Francis and the results of this assessment indicated ^{Student} A did not have Attention Deficit Hyperactivity Disorder. In completing this assessment, Dr. Francis, requested ^{Student} A's teachers complete the Vanderbilt Teacher Behavior Evaluation Scales. In completion of this Scale, ^{Student} A's teachers were asked to rank ^{Student} A's academic abilities in the areas of reading, writing, math, and homework completion on a scale of 1 to 5 with 1 being the most problematic and 5 being above average. Both ^{Student} A's Regular Education Teacher and Intervention Teacher ranked her with a 1 in reading and a 2 in writing. These scores were both in the problematic range according to the scale. Additionally, per the Evaluation Scale, ^{Student} A's teachers provided brief narratives discussing ^{Student} A's classroom performance. ^{Student} A's Intervention Teacher indicated that ^{Student} A had been participating in Reading/Writing Intervention for the past two years and still looked at the initial sounds of words to guess what the word may be in her reading. She also indicated that ^{Student} A had difficulty retelling short stories and wrote that she was "concerned that she [^{Student} A] will fall further and further behind which may affect her self-esteem." ^{Student} A's Regular Education Teacher reported that it had been "tricky" for ^{Student} A to learn to read, that she struggled with integrating reading strategies and that her eyes seem to be all over the page when she reads. Despite these comments, neither teacher referred ^{Student} A for an evaluation or suggested to us that she

may be a child with a disability.

10. At the end of ^{Student} A'' 's second grade year, May 2010, we received her scores on the TerraNova testing. ^{Student} A'' scored in the 26th percentile for reading and the 4th percentile for language.
11. During the Fall of ^{Student} A'' 's third grade year (Fall 2010), we again received a letter from the District notifying us that ^{Student} A'' was eligible to receive intervention services for Reading and Writing. She was scheduled for intervention 4 days per week for 40 minutes in a small group for reading and writing utilizing the Wilson Language Program and leveled books. We asked to meet with ^{Student} A'' 's teacher and the intervention specialist who had been working with ^{Student} A'' . At this meeting, we directly asked the District to complete an evaluation to see if ^{Student} A'' had a disability. The District responded that they would take our request into consideration but made no further attempts to initiate an initial evaluation.
12. After our meeting with the District in Fall 2010, we proceeded to have a private evaluation conducted by Dr. Dorothy Morrison from The Ohio State University Tutoring and Clinical Programs. Dr. Morrison's report concluded that ^{Student} A'' was a child with phonological dyslexia. In her report, Dr. Morrison indicated that ^{Student} A'' 's reading performance was limited when compared to her peers. Furthermore, the assessment indicated that ^{Student} A'' exhibited severe struggles with language processing and language, but evidenced strengths in listening to contextual reading.
13. Upon receiving Dr. Morrison's report, we asked to meet with ^{Student} A'' 's educational team, which included the Intervention Specialist currently working with ^{Student} A'' , ^{Student} A'' 's current Regular Education Teacher, the Principal, and her second grade teacher. Based

upon the results of the private assessment, we asked for ^{Student} A" to be identified as a child with a disability and to be provided with an Individualized Education Plan. The District first responded by suggesting ^{Student} A" be referred to the Intervention Assistance Team and be monitored for six weeks to track progress or lack thereof. We disagreed with this process as she had been receiving interventions for over three years, with no success, and we had documentation concluding that she was a child with a disability.

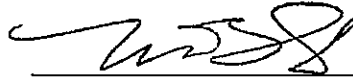
14. The District finally agreed to conduct an Evaluation Team Report and ^{Student} A" was identified as a child with a disability who requires specialized instruction in February 2011. Per ^{Student} A" 's Evaluation Team Report, she exhibited difficulties in reading, spelling, written expression and math and required specialized instruction in each of these areas.
15. As of March 2011, ^{Student} A" is now receiving specialized instruction and related services through an Individualized Education Plan.
16. During ^{Student} A" 's kindergarten, first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
17. During ^{Student} A" 's kindergarten, first, second and third grade years, we never received any progress reports or data indicating how ^{Student} A" was responding to the intervention services or the results of the interventions. It was not until the District completed ^{Student} A" 's Evaluation Team Report, after we provided documented proof of her disability, that we were told ^{Student} A" had not adequately responded to any of the previous years of intervention. As stated in her Evaluation Team Report, "Despite the classroom and intervention support, ^{Student} A" has not responded in order to be able to work at grade level."

18. During ^{Student} A's kindergarten, first, second and third grade years, the district never sought to refer ^{Student} A" to the Intervention Assistance Team process, never indicated that she might be a student with a disability, and never referred her for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student A"

SWORN TO BEFORE ME, and subscribed in my presence, this 2nd day of June, 2011.



Notary Public



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of)
IDEA Complaint)
Upper Arlington City Schools) **Affidavit in Support of Complaint**
)
)
)

State of Ohio)
) ss:
County of Franklin)

*Parent of
Students
NOW COMES AFFIANT, I, K, M & N", being first duly sworn in accordance with

law, deposes and states as follows:

1. My name is *Parent of Students I, K, M & N" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. I have four children who are attending or have attended schools within the Upper Arlington School District.
3. My children are: (1) "Student I" , age 16 who currently attends Upper Arlington High School; (2) "Student K" , age 14 who currently attends Jones Middle School; (3) "Student M" , age 10 who currently attends a private school, but who attended Barrington Elementary School prior to enrollment at her current school; and (4) "Student N" ; age 8 who currently attends a private school, but who attended Barrington Elementary for the 2008-09 school year.

4. My eldest daughter, "Student I", was initially identified for an Individualized Education Plan when she was in second grade due to motor planning issues.
 - a. "Student I" exhibited difficulties with her reading abilities while she was in elementary school. Due to her exhibited difficulties, I continuously requested that she receive intervention services to address reading skills through her Individualized Education Plan. Despite my efforts, the District never informed me that it offers instruction in the Orton-Gillingham program nor did the District initiate an evaluation to determine whether or not "Student I" also had a specific learning disability in addition to her identified motor planning needs.
 - b. At the end of eighth grade, the District removed her from her Individualized Education Plan and offered her accommodations through a 504 Plan as they believed she no longer required specialized education and services.
 - c. "Student I" continues to exhibit deficits in reading which is now evident by the fact that she is unable to keep pace with the volume and complexity of her high school reading assignments and regularly needs assignments read to her.
5. My son, "Student K", attended Barrington Elementary School and began exhibiting difficulty learning to read in first grade. During first grade, "Student K" participated in the Reading Recovery Program. To my knowledge, during this time, his progress in this group was not charted, measured or otherwise assessed. To

my knowledge, during this time, I did not receive any written progress reports or data indicating how ^{Student} "K" was responding to this intervention service or the results of the interventions. The District did not ask to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} "K" 's progress.

- a. When ^{Student} "K" entered second grade we were notified by the school that he was eligible to receive services in Reading and Writing. He received Reading/Writing Intervention during this school year. To my knowledge, during this time, his progress in this group was not charted, measured or otherwise assessed. We never received any written progress reports or data indicating how ^{Student} "K" was responding to this intervention service or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} "K" 's progress.
- b. When ^{Student} "K" entered third grade, we were again informed that he continued to be eligible to receive services in Reading and Writing. He again participated in Reading/Writing Intervention. During the course of this school year, staff also recommended that ^{Student} "K" should receive instruction in the Orton-Gillingham program. To my knowledge, however, during this time, his progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student} "K" was responding to this intervention services or the results of the interventions. The District

never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} K's progress.

c. At the end of ^{Student} K's third grade year, his cognitive and academic abilities were assessed as part of the standard curriculum. ^{Student K} scored in the 98th and 99th percentile on assessments of cognitive skills. Despite this marked superior cognitive ability, his academic assessments yielded scores in the 78th percentile for reading and the 71st percentile for language. The District did not contact me to discuss this discrepancy among his scores, nor did the district refer ^{Student K} for an initial evaluation.

d. At the beginning of ^{Student} K's fourth grade year, he continued to receive intervention in the Reading/Writing Intervention program. Approximately half-way through this school year, I was approached on the playground by one of Barrington's Intervention Specialists and told ^{Student} K needed to receive intervention based upon the Orton-Gillingham program. ^{Student} K then began receiving intervention in the Orton-Gillingham program for the second semester of his fourth grade year. Additionally, during this school year, ^{Student} K was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). The District never asked to meet with me to discuss why ^{Student} K was changing interventions or the recommendation that he receive Orton-Gillingham. To my knowledge, during this time, his progress in either group was not charted, measured or otherwise assessed. We never

received any progress reports or data indicating how ^{Student} K" was responding to the intervention services or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} K"'s progress.

- e. In April 2007, spring of his fourth grade year, ^{Student} K" participated in the Ohio Achievement Tests. His scores for Math and Reading were in the advanced range in comparison to his writing score that fell in the basic range. In a letter from Upper Arlington addressing these test scores, it was indicated that ^{Student} K" had superior cognitive ability and tested as gifted in math, science and social studies. The letter continued to indicate that, despite his superior cognitive ability and his testing in the gifted range in three areas, he was ineligible to receive services in gifted education as his reading and writing scores were too low.
- f. When ^{Student} K" entered fifth grade, based upon the information from the Ohio Achievement Tests, I requested an evaluation to see if he would qualify for gifted services. Barrington's school psychologist completed this testing and ^{Student} K"'s scores indicated a significant discrepancy between his ability and achievement, especially in written expression. Despite this information, the District did not refer ^{Student} K" for an initial evaluation to determine whether or not he was a child with a disability. I then requested the District conduct an initial

evaluation to determine whether he was a child with a disability based upon the results of this testing indicating he presented with a significant discrepancy between his ability and achievement. The District agreed to conduct the testing and ^{"Student} K" was identified as a child with a specific learning disability and began to receive services via an Individualized Education Plan.

g. "Student K" is now an eighth grade student at Jones Middle School. He was re-evaluated in November 2010 to determine whether or not he continued to qualify as a child with a disability who is eligible for special education and related services. The District agreed that he continues to be a child with a specific learning disability; however staff did not believe he continued to qualify to receive special education and related services and offered him accommodations on a 504 Plan.

6. My daughter "Student M" attended Barrington Elementary School from kindergarten through first semester of her fourth grade year. "Student M" was privately enrolled at Marburn Academy, a private school for children with ADHD and learning disabilities, in January 2011.

a. When ^{"Student} M" entered first grade, I was notified that she was eligible to receive intervention services in Reading and Writing. Accordingly, she received services through the Reading Recovery program during the course of this school year. To my knowledge, during this time, her progress in this program was not charted, measured or otherwise

assessed. We never received any progress reports or data indicating how "Student M" was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding "Student M" 's progress.

- b. When "Student M" entered second grade, I was again informed that she was eligible to continue to receive intervention services in Reading and Writing. During this school year she received Reading/Writing Intervention. Additionally, towards the end of the school year, "Student M" received instruction in the Orton-Gillingham program. To my knowledge, during this time, her progress in this program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how "Student M" was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding "Student M" 's progress.
- c. Despite the continued interventions, now for two school years, "Student M" continued to struggle. Upon her entry into third grade, I was again notified that she qualified to receive intervention services in Reading and Writing. The District offered the same interventions she received in second grade (participation in Reading/Writing Intervention and Orton-Gillingham). The District never asked to meet with us to discuss

the interventions or to share intervention data with us regarding 'Student M''s progress.

- d. Upon 'Student M'' entering fourth grade, I was informed that she no longer qualified to receive Orton-Gillingham instruction or Reading/Writing Intervention services. Due to 'Student M''s ongoing struggles, I e-mailed the District team to communicate 'Student M''s feelings of defeat and embarrassment as she was starting to believe she was stupid and slow due to her reading and writing challenges. I also shared with the District 'Student M''s score of 67 words correct per minute on a recent DIBELS assessment that indicated that she required intensive, substantial intervention and requested that she remain in intervention services. In response to this e-mail, 'Student M''s teachers indicated that her difficulties were due to the fact that she was simply not a confident reader and was insecure. The District then agreed to offer her writing intervention only in the area of Spelling. The District did not, however, offer to convene a meeting to discuss my concerns or 'Student M''s ongoing academic difficulties nor did 'Student M''s team refer her for an initial evaluation.
- e. Based upon 'Student M''s continued deficits in reading and written expression, I had her privately evaluated by Dr. Charlotte G. Andrist, an Educational Consultant and Language Learning Tutor. Dr. Andrist's evaluation determined that 'Student M''s decoding and sight word recognition skills were in the below average range, her fluency

fell in the below average range, ^{Student} "M" was functioning in the deficit range in spelling, and that, overall, she was functioning below expected levels for her age in reading basic skills and written expression (spelling). Based upon her findings, Dr. Andrist recommended, in part, that ^{Student} "M" "receive daily small group or individualized instruction in decoding skills, spelling and reading fluency using an explicit, systematic simultaneous multisensory structured language approach." Upon receipt of the results of this evaluation, on September 17, 2010, I wrote to Barrington's Principal and requested an evaluation team report be completed to determine whether ^{Student} "M" was a child with a disability. I attached Dr. Andrist's report to this letter.

- f. On October 12, 2010, I received a response from Barrington's Principal indicating that ^{Student} "M" had finally been referred to the Intervention Assistance Team. The District did agree to conduct an initial evaluation and on November 17, 2010, ^{Student} "M" was eventually found to be a child with a disability who was eligible to receive special education and related services under the category of specific learning disability. She qualified as a child with a specific learning disability in the areas of Reading Fluency, Basic Reading Skills, Written Expression and Mathematics Calculation.
- g. During the course of ^{Student} "M" 's evaluation, I met with the school psychologist at Barrington. He showed me ^{Student} "M" 's test scores and

said she fit the profile of a bright child who also had dyslexia and asked me what the team should do. I responded by stating that she needed an Individualized Education Plan. The Psychologist then replied by telling me that we had a "window of opportunity" and that I needed to speak with someone above Melissa Gordon, Director of Intervention Services, as many staff members' hands have been tied for many years.

- h. During ^{Student} M's first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
 - i. During ^{Student} M's first, second and third grade years, the district never sought to refer ^{Student} N to the Intervention Assistance Team process, never indicated that she might be a student with a disability, and never referred her for an initial evaluation.
- 7. My daughter, ^{Student} N, attended Barrington Elementary School for kindergarten during the 2008-09 school year. She was privately enrolled at Marburn Academy for the 2009- 2010 school year and continues to be educated privately at Marburn.
 - a. ^{Student} N exhibited struggles with reading during the onset of her kindergarten year, particularly in the area of early literacy skill development. Based upon these struggles and the family's history with reading difficulties, ^{Student} N's teacher recommended that

"Student N" participate in Barrington's LIFT program for additional services (the LIFT program offers students a half day of language interventions in addition to their half day kindergarten programming). Despite her teacher's recommendation, "Student N" did not qualify for the LIFT program based upon her scores from the K-RAL assessment. In January, "Student N"'s teacher informed me that she should be retained in kindergarten due to her academic difficulties and lack of progress.

- b. Based upon her teacher's recommendation for retention, I brought "Student N" to Marburn Academy to privately have the Comprehensive Test of Phonological Processing (CTOPP) administered to her. The results of this assessment indicated that she might have a learning disability so I had "Student N" independently evaluated in February 2009. The results of this evaluation suggested that "Student N" may have Heredity Developmental Dyslexia and a Generalized Anxiety Disorder.
- c. In March 2009, I shared the results of "Student N"'s private testing with her kindergarten teacher and we met to brainstorm ways to assist "Student N". At this meeting, I learned "Student N" was receiving a form of intervention; however, I was never informed as to what interventions she was receiving, the frequency of these interventions and any progress in response to the interventions. I was also told that, due to this intervention, "Student N" misses large amounts of content area teaching in her general education classroom.

- d. In April 2009, after I met with "Student N"'s teacher, I requested that the District conduct testing based upon the results of the CTOPP. The only testing completed by the District based upon my request was a re-administration of the CTOPP by an Intervention Specialist. On this assessment, she scored a 94 and 85 in Phonological Awareness and Phonological Memory respectively; however her rapid naming score was a 59 which placed her lower than the first percentile. When she was given the CTOPP at Marburn, she had scored an 82 in rapid naming, indicating that her skill level had significantly declined over the course of three months. Knowing that the District was only administering the CTOPP to "Student N'", I had a private Speech Pathologist administer the Clinical Evaluation of Language Fundamentals (CELF). The results of the CELF indicated that "Student N"'s Receptive Language Index was a 127, while her Language Content Index was an 86.
- e. After the completion of these tests, The District staff and I met for an Intervention Assistance Plan Meeting to review the results of the evaluations and discuss "Student N"'s development. At this meeting, the District reiterated their belief that "Student N'" needed to be retained and reiterated numerous areas of concern on the Intervention Assistance Team Plan Form. The District, however, never offered to refer "Student N'" for an initial evaluation and never indicated they suspected she might have a disability. The Intervention Plan also did not

indicate any scientifically, research-based interventions that would be implemented. Instead, based upon my statement that I may pursue enrollment at Marburn Academy for the following school year, the Intervention Plan simply states that a follow-up meeting date was undetermined. Additionally, once I disclosed to the team that I may pursue enrollment at Marburn Academy for "Student N", the intervention specialist currently working with "Student N", told me that she was so glad to hear that as "we have no idea what to do for her."

- f. "Student N" began Marburn Academy in first grade and is now a fluent reader.
- g. During "Student N"'s kindergarten year, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District.
- h. During "Student N"'s kindergarten year, we never received any progress reports or data indicating how "Student N" was responding to the intervention services or the results of the interventions.
- i. During "Student N"'s kindergarten year, the district never sought to refer "Student N" for never indicated that she might be a student with a disability, and never referred her for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Students I, K, M & N"

SWORN TO BEFORE ME, and subscribed in my presence, this 3rd day of June,
2011.



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of)
)
) **Complaint**
) **Affidavit in Support of Complaint**
)
)

State of Ohio)
) ss:
County of Franklin)

NOW COMES AFFIANT, "Parent of Student C", being first duly sworn in accordance with law, deposes and states as follows:

My name is "Parent of Student C" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.

My daughter, "Student C", currently attends Barrington Elementary School, a school in the Upper Arlington School District.

"Student C" is six years old and is currently a kindergarten student.

On September 16, 2010, at the beginning of "Student C"'s kindergarten year, I submitted to the Principal of Barrington Elementary School a request to have an Evaluation Team Report conducted for "Student C". In addition to my written request, I provided the Principal with evaluation results indicating that "Student C" might be a child with a disability. The evaluation results included results of DIBELS testing, scores from the Comprehensive Test of Phonological Awareness, progress from summer tutoring "Student C" received in the Orton-

Gillingham program, and a letter from ^{Student} C'' 's pediatrician recommending an ETR to classify ^{Student} C'' as a child with SLD in reading.

The District convened an Intervention Assistance Team meeting on October 7, 2010 in response to my written request. At this meeting I shared that ^{Student} C'' had been receiving private tutoring in Orton-Gillingham and has exhibited difficulties with letter recognition, letter sound, writing and comprehension since the age of 3. The District, relying on classroom reports and the results of the KRA-L (Administered in September and then again in October), determined that it did not suspect ^{Student} C'' of having a disability and therefore refused to evaluate her.

Despite the District's refusal to evaluate and statement that they did not suspect ^{Student} C'' of having a disability, staff members still offered ^{Student} C'' interventions in a reading/writing intervention group and agreed to continue to monitor her progress. Specifically, the Intervention Assistance Team Plan offered at this meeting stated that my husband and I would discontinue ^{Student} C'' 's private tutoring and that the District would offer her small group Reading and Writing intervention support to monitor her progress. The Plan further stated that if ^{Student} C'' did not continue at her current rate of growth, the team would reconvene to reevaluate services that best meet ^{Student} C'' 's needs. The plan, however, did not include any specific interventions to be used nor was there identification of the person responsible for providing the interventions and tracking progress.

"Student C" continued to struggle as the staff failed to collect sufficient data to design interventions that would result in appropriate instruction for "Student C". To my knowledge, her progress in the intervention implemented was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how "Student C" was responding to this intervention service or the results of the interventions.

My husband and I filed a Complaint with the Ohio Department of Education in December 2010 for the District's failure to evaluate and identify "Student C" as a child with a disability. In response to this filing, in January 2011, the District requested to reconvene the Intervention Assistance Team and agreed to conduct an evaluation to determine whether or not "Student C" was a child with a disability in need of specialized instruction and related services.

"Student C" was identified as a child with a disability on March 14, 2011.

At "Student C"'s initial Individualized Education Plan meeting, I specifically asked the District if her progress was ever measured in the reading and writing intervention received through the IAT process. Barrington's Principal responded that progress data had not been taken.

"Student C" is now receiving specialized instruction and related services through an Individualized Education Plan.

FURTHER AFFIANT SAYETH NAUGHT,

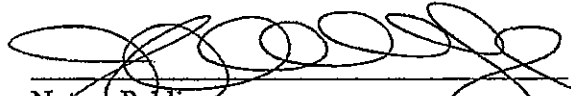
"Parent of Student C" _____

SWORN TO BEFORE ME, and subscribed in my presence, this 1 day

of June, 2011.



JENNIFER A CRUZE
Notary Public, State of Ohio
My Commission Expires
November 21, 2015



Notary Public

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of)
)
) **Complaint**
)
) **Affidavit in Support of Complaint**
)
)

State of Ohio)
) ss:
County of Franklin)

NOW COMES AFFIANT, ^{Parent of} "Student D", being first duly sworn in accordance with law, deposes and states as follows:

1. My name is ^{Parent of} "Student D" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My son, "Student D" attend school in the Upper Arlington School District from 1993-2004.
3. ^{Student} "D" attended Barrington Elementary School within the Upper Arlington School District and began exhibiting signs that he was struggling to learn how to read during his elementary school years.
4. In Kindergarten, ^{Student} "D" exhibited an aversion to school. Throughout this school year, I expressed to his Kindergarten teacher my concerns regarding his lack of development of reading skills. I was told that ^{Student} "D" was a smart child and he would "catch on."
5. During ^{Student} "D"'s first grade year, I was informed by his teacher that there were "extra" spots in the Reading Recovery program and therefore ^{Student} "D" could participate. His teacher stated that he was doing okay in class, but the Reading Recovery program needed extra students to join. She also indicated that he would not have qualified for this program but for these

extra spots.

6. While ^{Student} D' was receiving instruction through the Reading Recovery program, he would routinely bring home books to read. He would read each book flawlessly; however, when I would ask him to read a word in isolation from the text, he could not do so and would melt down.
7. I approached ^{Student} D' 's Reading Recovery teacher to express my concern that ^{Student} D' was unable to sound out words or read. The teacher proceeded to yell at me and state that my attempts to teach ^{Student} D' phonics at home were jeopardizing his ability to learn to read. In addition, she told me I was crushing ^{Student} D' 's self-esteem and that I should trust the experts working with him to teach him to read.
8. During ^{Student's} D' 's participation in the Reading Recovery program, to my knowledge, his progress in this group was not charted, measured or otherwise assessed. To my knowledge, we never received any progress reports or data indicating how ^{Student} D' was responding to this intervention services or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} D' 's progress.
9. By the time ^{Student} D' entered third grade, he was still exhibiting difficulties with reading. I approached Dr. Oakley, Barrington's Principal at the time, to express my concerns. My efforts were again rebuffed as I was told that not all children are "rocket scientists" and that I should just let ^{Student} D' be average.
10. By the end of ^{Student} D' 's third grade year, I remained concerned regarding his exhibited reading deficiencies. I employed a friend to administer a private reading assessment to determine at what level ^{Student} D' was currently reading. The assessment concluded ^{Student} D' was

reading at a beginning first grade level.

11. Based upon the results of this private assessment, I had Bonnie Ritchie, Ph.D. conduct a full educational psychological profile on ^{Student} D'. The results of her testing showed that ^{Student} D' had a 127 IQ when scores on the reading measures were omitted, but a 117 IQ when scores on the reading measures were included.
12. Based upon the reading assessment and the private psychological testing, I requested that the District complete an Evaluation to determine whether ^{Student} D' was a child with a disability. The District agreed to conduct an Evaluation at end of ^{Student} D' s third grade year.
13. During the summer after ^{Student} D' s third grade year, I privately hired a tutor to work with ^{Student} D' 1:1 utilizing the Wilson Language Program. ^{Student} D' met with his tutor 2 times per week and his reading level increased from a first to an eighth grade level over the course of this summer tutoring.
14. When school resumed in the Fall, ^{Student} D' s fourth grade year, he had been identified as a child with a disability and the school held an Individualized Education Plan (IEP) meeting. At this meeting, Joe Keith, Barrington's School Psychologist, stated to me "Well, you got what you wanted," in reference to ^{Student} D' being identified as a child with a disability. Curiously, though, ^{Student} D' did not qualify for specialized instruction in reading as the District stated he was currently performing at grade level in this area. The only reason ^{Student} D' was currently performing at grade level in reading was due to the private tutoring he received over the summer. He was identified as a child with a specific Learning Disability in Math.
15. After the Individualized Education Plan meeting, I approached ^{Student} D' s kindergarten and first grade teacher and asked why she never referred ^{Student} D' for an Evaluation Team Report

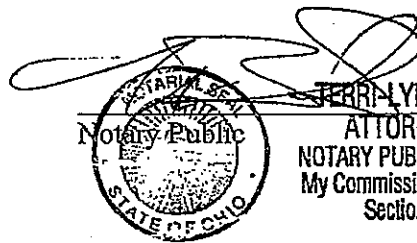
or recommended that I contact the District and request one. She responded by telling me she was not allowed to encourage parents to obtain Evaluation Team Reports due to the costs associated with the process.

16. As stated above, ^{Student} D's IEP only addressed Math and did not address his underlying language disability. Therefore, I continued private tutoring for ^{Student} D with a tutor who utilized the Orton-Gillingham approach.
17. Finally, in ninth grade, ^{Student} D was identified with a Language Processing Disorder by the Speech and Language Pathologist. His language needs were then incorporated into his IEP; however, he no longer qualified for Math instruction.
18. Due to the struggles ^{Student} D encountered with identification and receipt of appropriate services and due to developing medical concerns, I removed ^{Student} D from the Upper Arlington Schools after his tenth grade year.
19. During ^{Student} D's kindergarten, first, second and third grade years, the district never sought to refer ^{Student} D to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFLIANT SAYETH NAUGHT,

"Parent of Student D"

SWORN TO BEFORE ME, and subscribed in my presence, this 3rd day of
June, 2011.



TERRILYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

out to receive Reading/Writing Intervention. His teacher expressed to me that this was not due to any reading and writing difficulties but due to the fact that she believed the classroom was too noisy for ^{Student} G" and that he would tend to wander around during instruction. Based upon ^{Student} G"'s Ohio Achievement testing scores, I enrolled him in Sylvan for tutoring services as he continued to struggle with reading. He completed over 100 hours of tutoring through Sylvan Tutoring, but continued to have difficulty with oral fluency and decoding. To my knowledge, during this time, his progress in the Reading/Writing Intervention program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student} G" was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding "Student G"'s progress.

5. In fourth grade, the District's response to ^{Student} G"'s ongoing reading deficits was to place him with a teacher who utilizes general education interventions and who had a master's degree in reading education so ^{Student} G" could receive the "boost" he needed to achieve. He also continued to be pulled out for Reading/Writing Intervention as, according to his teacher, the District was hoping that if he was in a quiet room he could focus and get more out of reading instruction. The interventions were not successful. To my knowledge, during this time, his progress in the Reading/Writing Intervention program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student} G" was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding ^{Student} G"'s progress.

6. At ^{Student}G''s fifth grade mid-year parent-teacher conference, I continued to express concerns regarding his difficulties in reading. I was told by his teachers that ^{Student}G''s deficits were a "boy thing" and that "he doesn't care" about his academics; however, after this conference, his science teacher approached me privately and advised me to have him tested to see whether or not he was a child with a disability.
7. In Spring 2009, ^{Student}G'' scored in the Basic range (389) on his 5th Grade Ohio Achievement Test. He was "below proficient" in acquisition of vocabulary, reading process, and literary text, and scored "near proficient" in informational text. He was not proficient or above proficient in any area of Reading. Based upon these scores, ^{Student}G''s teachers continuously indicated that he could not focus, and ^{Student}G''s science teacher indicating that he might be a child with a disability, I had ^{Student}G'' privately evaluated by William B. Benninger, Ph.D., a psychologist who specializes in the treatment of Attention Deficit Hyperactivity Disorder. The results of this evaluation indicated that ^{Student}G'' did not have Attention Deficit Hyperactivity Disorder, but that his performance in Word Reading and Pseudoword Decoding were in the low average range and approximately 2-3 years behind grade level. His performance in Reading Comprehension was in the average range.
8. Based on Dr. Benninger's evaluation, we had ^{Student}G'' privately tested by Susan Nittrouer, Ph.D., from The Ohio State University Medical Center, Department of Otolaryngology, in May 2009. The results of her testing confirmed that ^{Student}G'' struggles in terms of reading because he does not have a clear understanding of phonemic structure.
9. At the end of ^{Student}G''s fifth grade year, I shared the results from Dr. Benninger's and Dr. Nittrouer's assessments and my concerns with Tremont Elementary School's Principal. The Principal responded by stating that he would arrange for the school's Orton-

Gillingham tutor, Ms. Witherow, to meet with ^{Student} G" and assess his abilities. Ms. Witherow met with ^{Student} G" on one occasion, conducted one assessment (the Diagnostic Reading Assessment (DRA)), and determined that ^{Student} G" was not eligible for reading intervention because his reading comprehension scores were at grade level, despite scores of two years below grade level in word recognition, spelling and knowledge of word meaning. Recognizing that ^{Student} G" needed reading intervention, I asked her if she would privately tutor ^{Student} G" over the summer. As Ms. Witherow did not have room in her schedule to tutor ^{Student} G", I proceeded to secure tutoring with a private tutor.

10. Despite the results of Dr. Benninger's and Dr. Nittrouer's assessments and my expressed concerns regarding ^{Student} G"'s reading abilities, the District did not offer to conduct an Evaluation, nor did they call an Intervention Assistance Team meeting. I was, however, notified by the Principal of Tremont Elementary that he and an Intervention Specialist would write an intervention plan to allow ^{Student} G" additional time for tests and classroom assignments with lengthy reading portions. Neither my husband nor I was invited to participate in developing the plan. The plan was drafted and placed in his cumulative file and a copy was sent home in ^{Student} G"'s backpack.

11. During the Summer of 2009, my husband and I continued to provide ^{Student} G" with private tutoring in Orton-Gillingham one day per week based upon a recommendation from Upper Arlington. This tutoring continued through May 2011.

12. When ^{Student} G" entered Jones Middle School, I reviewed the testing conducted by Dr. Benninger and Dr. Nittrouer with the Principal and ^{Student} G"'s teachers at an Intervention Assistance Team meeting on September 14, 2009. The team referred ^{Student} G" for additional assessments of written language and phonological processing skills, but did not offer to

conduct an Evaluation Team Report. The results of the additional assessments showed that ^{Student} G" performed in the low average range in phonological awareness, rapid naming, and alternative rapid naming. The District also assessed ^{Student} G"'s written language, even though that was not an area of concern. His skills in that area were in the average range. As a result of this assessment, the staff offered ^{Student} G" participation in three semesters of a reading program in place of his foreign language requirement. No intervention strategies were discussed or agreed upon, no progress monitoring occurred, and no meetings were held to assess the effectiveness of the intervention. The reading program was ineffective for ^{Student} G" .

13. In May 2010, I again had ^{Student} G" assessed by Dr. Nittrouer. As with her previous assessment, she again concluded that ^{Student} G" 's deficits in phonemic structure were adversely impacting his reading and language abilities.

14. At the start of ^{Student} G" 's seventh grade year, Fall 2010, having had no success in persuading the District to provide the services that ^{Student} G" needs, I hired an advocate to represent my child. The District finally agreed to conduct an Evaluation Team Report (ETR). The results of the ETR indicated ^{Student} G" was a child with a speech or language impairment with additional deficits in the areas of reading, language processing, processing speed, reading comprehension, and irregular language. At the ETR review meeting, although we felt that ^{Student} G" 's processing speed deficit in his general intelligence led to classification as a child with a Specific Learning Disability, the District disagreed. After significant discussion, and in an effort to work with the District, we agreed that ^{Student} G" could be found eligible as a child with a disability in the area of Speech or Language Impairment.

15. As of January 12, 2011, ^{Student} G" began receiving specialized instruction and related services

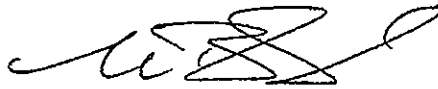
through an Individualized Education Plan.

16. During ^{Student} G''s third and fourth grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
17. During ^{Student} G''s third through sixth grade years, we never received any progress reports or data indicating how ^{Student} G'' was responding to the intervention services or the results of the interventions.
18. During ^{Student} G''s third through sixth grade years, the district never sought to refer ^{Student} G'' to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student G"

SWORN TO BEFORE ME, and subscribed in my presence, this 1st day of June, 2011.



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of

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Complaint

Affidavit in Support of Complaint

State of Ohio

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) ss:

County of Franklin

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NOW COMES AFFIANT, "Parent of Student F", being first duly sworn in accordance with law, deposes and states as follows:

1. My name is "Parent of Student F" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My son, "Student F", currently attends Marburn Academy, a private school for children with average or above intelligence and diagnoses of Attention Deficit Hyperactivity Disorder (ADHD) and Dyslexia. For the 2011-12 school year, "Student F" will be re-enrolling in the Upper Arlington School District and attending Upper Arlington High School.
3. "Student F" is 16 years old and is currently a tenth grade student.
4. Before enrolling in Marburn Academy for the 2010-11 school year, "Student F" attended the Upper Arlington City School District.
5. "Student F" was first evaluated by Upper Arlington for a suspected disability in October, 2008. Although he was not found eligible as a "child with a disability" under the Individuals with Disabilities Education Act (IDEA), he was determined to be eligible as an individual with a disability under Section 504 of the Rehabilitation Act of 1973 and the Americans

with Disabilities Act. He was provided with a Section 504 educational plan.

6. From October 2008 through the end of the 2009-10 school year, until ^{Student} F" enrolled in Marburn Academy, the District was obligated to provide a free appropriate public education to ^{Student} F" under his 504 plan.
7. Also from October 2008 through the end of the 2009-10 school year, the District received several assessments, letters from doctors, reports from teachers, and evaluations indicating that ^{Student} F" experienced academic and behavioral difficulties as a result of his diagnoses of ADHD and Dyslexia. I provided ^{Student} F"'s educational team with copies of these assessments, letters and reports. The team refused to further evaluate ^{Student} F" or reconsider his eligibility for an Individual Education Plan under IDEA.
8. During the time frame of October 2008-June 2010, ^{Student} F"'s academic needs intensified and he was failing a majority of his general education coursework. He also manifested oppositional behavior more frequently at school and in private therapy. Dating from January 2009-January 2010, ^{Student} F" was given 22 after school detentions or Saturday school assignments as a result of his absences. Finally, Upper Arlington reported ^{Student} F" truant at the end of the 2009-10 school year, when he stopped attending school during the last 10 weeks of school.
9. According to ^{Student} F"'s private psychiatrist, his truancy was likely caused by profound frustration with regard to his ADHD and Dyslexia. At the time, ^{Student} F" expressed feeling hopeless and overwhelmed by the demands of the high school.
10. While ^{Student} F" was on his 504 Plan, I requested meetings with his team in October 2009 and in March 2010 to discuss the effectiveness of his interventions, particularly as it relates to his Dyslexia, and to reiterate my continued concerns regarding his lack of progress,

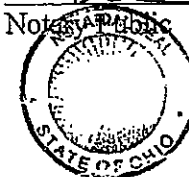
repeated disciplinary referrals and my belief that he was a child with a disability who qualified for and Individualized Education Plan. The District continued to opine that ^{Student} F" i's dyslexia was not significant to impair his learning and that it was simply his absences that were to blame for his failing marks. Despite my frequent appeals to evaluate ^{Student} F", and the existence of his diminishing ability to cope with school, the District failed to consider another evaluation for special education.

11. The District never included ^{Student} F" in specialized instruction to address his dyslexia or collect response to intervention data to determine if his dyslexia had an adverse impact on his educational performance.
12. As of today, the District, despite advice from the Ohio Department of Education to the contrary, continues to refuse to evaluate ^{Student} F" for eligibility as a child with a disability. A complaint is pending with the Office for Exceptional Children on their denial, received May 13, 2011, to conduct an evaluation. At this point, in August, 2011, ^{Student} F" will be returning to the Upper Arlington High School without adequate services to meet his needs.

FURTHER AFFIANT SAYETH NAUGHT,

Parent of Student F"

SWORN TO BEFORE ME, and subscribed in my presence, this 1st day of June, 2011.



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of)
) **Complaint**
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) **Affidavit in Support of Complaint**
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State of Ohio)
) ss:
County of Franklin)

NOW COMES AFFIANT, "Parent of Student E" being first duly sworn in accordance with law, deposes and states as follows:

1. My name is "Parent of Student E" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My son, "Student E", currently attends Barrington Elementary School, a school within the Upper Arlington School District.
3. "Student E" is 10 years old and is currently a fourth grade student.
4. "Student E" began exhibiting difficulty learning to read in kindergarten at Barrington Elementary School.
5. During his kindergarten year, "Student E" was identified to receive intervention services. He participated in a Phonemic Awareness group where he received small group instruction with a reading teacher.
6. I was not notified of "Student E"'s participation in the Phonemic Awareness group until the end of the school year. To my knowledge, his progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how "Student E" was responding to this intervention services or the results of the

interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding ^{Student} "E"'s progress.

7. At the beginning of his first grade year, ^{Student} "E" was again identified to receive intervention services based upon an assessment of his literacy skills and information from his classroom teacher. It was stated that he needed support with early literacy skills. As such, it was recommended he participate in the Reading/Writing Intervention program. In February of the same school year, we received another letter indicating that based upon literacy skill assessments and information from his classroom teacher, it was recommended that ^{Student} "E" participate in the Reading Recovery Program during second semester. Besides the letter we received from the District, we did not received further explanation as to why ^{Student} "E" was being recommended for a different program nor did anyone ask to meet with us to discuss ^{Student} "E"'s progress or lack thereof. We never received any information indicating why one intervention was selected over another, the frequency and intensity with which ^{Student} "E" would receive the programming, or what specific literacy objectives would be targeted for ^{Student} "E" during the interventions. To my knowledge, his progress in either group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how ^{Student} "E" was responding to this intervention services or the results of the interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding ^{Student} "E"'s progress.

8. During his second grade year, ^{Student} "E" was again identified to receive intervention services for reading. He received group instruction in the Wilson Language Program four times per week for forty minutes each session. The teacher providing services was not

adequately trained in the program to provide it. I received one progress report which denoted his scores on the Diagnostic Reading Assessment (DRA), hearing sounds in words, sitton spelling and high frequency words from the beginning of first quarter. This report also indicated his high frequency word score from the end of the quarter. To my knowledge, no other progress data in this group was not charted, measured or otherwise assessed. We never received any information indicating why this intervention was selected or what specific literacy objectives would be targeted for ^{Student} "E" during the intervention. We never received any additional progress reports or data indicating how ^{Student} "E" was responding to this intervention service or the results of the interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding ^{Student} "E" 's progress.

9. During his third grade year, ^{Student} "E" was identified to continue receiving intervention services for reading. This year, however, the District placed him in 1:1 instruction with an intervention specialist utilizing the Orton-Gillingham program. He received 1:1 instruction three times per week for forty to fifty minute session and received instruction in a small group (1 teacher:2 students) one time per week for forty to fifty minutes. We received a quarterly written progress report outlining ^{Student} "E" 's progress as measured by informal reading inventories and district criterion-referenced assessments. The District never asked to meet with us to discuss the interventions or to determine if the interventions were leading to progress.

10. When ^{Student} "E" was placed in 1:1 instruction with the Orton-Gillingham program I asked the intervention specialist why he was recommended to receive 1:1 instruction. I was told "it helps kids like your son." When I asked what that statement meant, I did not receive a

response.

11. During his third grade year, despite four years of "intervention services," ^{Student} "E" failed to pass the Ohio Achievement Assessment in math and reading after taking each test twice.
12. At the beginning of ^{Student} "E" 's fourth grade year, for the fourth year in a row, we received a letter from Upper Arlington's "Literacy Team" that ^{Student} "E" "would benefit from Reading/Writing Intervention" in either a "pullout small group setting or in the classroom."
13. I requested a meeting with Melissa Gordon, Director of Pupil Services. The meeting was held at Barrington Elementary School, and when I arrived, the District conducted the meeting as an Intervention Assistance Team meeting. I was not notified prior to entering the meeting that it would be an Intervention Assistance Team meeting.
14. At this meeting, I expressed concerns that ^{Student} "E" may be dyslexic. District staff did not respond to my statement, but agreed to conduct an Evaluation to determine whether or not ^{Student} "E" was a child with a disability. This was the first meeting that I attended at the District to review the interventions provided to ^{Student} "E", and their effectiveness or lack thereof, over the past three years.
15. The results of his Evaluation Team Report indicated ^{Student} "E" was a child with a specific learning disability in the areas of reading and math.
16. As of December 14, 2010, ^{Student} "E" is now receiving specialized instruction and related services through an Individualized Education Plan.
17. During ^{Student} "E" 's kindergarten, first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.

18. During ^{Student} E's kindergarten, first, second and third grade years, the district never sought to refer ^{Student} E to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student E"

SWORN TO BEFORE ME, and subscribed in my presence, this 1st day of June, 2011.



Notary Public



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.05 R.C.

**OHIO DEPARTMENT OF EDUCATION
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of

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Complaint

Affidavit in Support of Complaint

State of Ohio

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) ss:

County of Franklin

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NOW COMES AFFIANT, ^{Parent of Student B}, being first duly sworn in accordance with law, deposes and states as follows:

1. My name is ^{Parent of Student B} and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My daughter, ^{Student B}, currently attends Barrington Elementary School, a school in the Upper Arlington School District.
3. ^{Student B} is ten years old and is currently a third grade student.
4. ^{Student B} began exhibiting difficulties with her language development during preschool. As a result, her preschool teacher, at First Community Church, referred her for Speech and Language assessments due to delays in the areas of word retrieval, grammar usage, and an inability to learn her letters and numbers. I also had her auditory processing and communicative functioning assessed by the Kaufman Children's Center. Based upon this testing, ^{Student B} was diagnosed with an auditory-linguistic processing and retention disorder. It was also noted that she had difficulty with concept learning and development and word retrieval with a possibility of an underlying learning disability. Additionally, the evaluation recommended a full cycle educational evaluation to determine whether she

would qualify as a student with a learning disability. I provided these assessments to "Student B"'s teachers prior to her start in Barrington.

5. During the beginning of her kindergarten year at Barrington, 2007-08 school year, we requested that "Student B" be provided with intervention services based upon the results of the private testing we had shared with the District. In response to this request, the Intervention Assistance Team met and drafted an Intervention Assistance Team Plan in October 2007. This Plan, however, did not identify staff responsible for its implementation and did not provide any scientific, research-based interventions. Instead, the plan stated "Student B" would be given a concept assessment, that "Student B" would use the Earobics computer program and that the Intervention Assistance Team will monitor "Student B"'s eligibility for the phonemic awareness group. In discussions regarding "Student B"'s use of the Earobics computer program, school team members suggested that it would be less intrusive to "Student B"'s school schedule if we purchased the program for "Student B" to use at home. Following this suggestion, my husband and I immediately purchased Earobics for "Student B"'s use at home.
6. The Intervention Assistance Team met again in April 2008. At this meeting, it was reported that "Student B" was exhibiting numerous difficulties and not making adequate progress. It was also reported that "Student B" was receiving "interventions," with no additional information provided to me and my husband, twice a week for 30 minutes each session. There was no coordination from the District to monitor "Student B"'s progress in the Earobics program. The only monitoring technique the District employed was for "Student B" to complete a sheet indicating the number of minutes she spent using the program at home for which she would receive a prize. We were given no information about the methods, techniques,

programs or interventions being used. Furthermore, the Intervention Assistance Team Plan stated, "IAT concurs that ^{Student} B" demonstrates behaviors consistent with dyslexic profile. Team recommends placement in Orton-Gillingham program next year with Mrs. McGraw (typically 3-5x/wk., for approximately 30 minutes)." Despite indicating that the team concurred that ^{Student} B" demonstrated behaviors consistent with Dyslexia, and, over the course of the prior six months had not made adequate progress or responded to her interventions, the District never referred her for an Evaluation Team Report to determine whether she was a child with a disability.

7. In an effort to provide a coordinated intervention to address ^{Student} B" 's language-based learning disabilities, my husband and I withdrew ^{Student} B" from Upper Arlington Schools and enrolled her at Marburn Academy, a private school for children with ADHD and learning disabilities, for first grade.
8. ^{Student} B" attended Marburn Academy for first and second grade.
9. While attending Marburn Academy, ^{Student} B" was assessed by the Columbus City School District in May 2010 and found eligible for special education services. Due to ^{Student} B" 's continuing language processing and academic deficits, and her difficulty with social isolation from her neighborhood peers, my husband and I decided to pursue special education services with the Upper Arlington City Schools and re-enrolled ^{Student} B" for the 2010-11 school year at Barrington Elementary School.
10. Per the results of the May 2010 Evaluation Team Report completed by Columbus City School District, Upper Arlington identified ^{Student} B" as a student with a disability, and on June 8, 2010, an IEP meeting was held for ^{Student} B" .
11. ^{Student} B" returned to Upper Arlington City School District at the beginning of the 2010-11

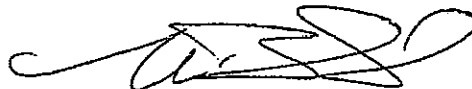
school year.

12. During ^{Student} B's Kindergarten year at Upper Arlington, the District never referred her for an initial evaluation despite their own intervention team report indicating that she presents with behaviors consistent with dyslexia.

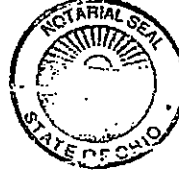
FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student B"

SWORN TO BEFORE ME, and subscribed in my presence, this 2^{5th} day
of June, 2011.



Notary Public



TERRI-LYNNE B. SMILES
ATTORNEY AT LAW
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No Expiration
Section 147.03 R.C.

ANNUAL EVALUATION
FOR
MELISSA GORDON
DIRECTOR OF INTERVENTION SERVICES
2010

Following are Missy Gordon's goals for the 2009 - 2010 school year:

1. Roll out new Forms and Guidance Documents that accompany them
2. Roll out the new PSFE
3. Continue to work on transitioning to a data warehouse system for assessment results
4. Develop a plan for the identification of SLD students
5. Complete the Social Skills Curriculum pilot
6. Develop restraint and seclusion procedures (and policy if needed)
7. Develop a format for transition evaluations that lead to transition planning for IEP's
8. Complete the new format for the WEP's
9. Lead the RTI committee (Strategy 1.4A)

Missy has reported her accomplishments as follows:

1. Three different opportunities have been provided to staff to review the new IEP forms and three different opportunities have been provided to staff to review the ETR. In addition, the psychologists continue to discuss the ETR forms in an attempt to standardize practice..
2. Using a train the trainer model, PSFE was rolled out to the staff with Roy Gordon. Since that time, access has been given to all interested IS on their home computers. After the initial glitches, which were largely on the operational side of our system, it appears that the roll out has been successful as we have only asked Roy to trouble shoot one problem.
3. The data warehouse transitioning process is currently being held up on the vendor side.
4. This goal is no longer a state requirement. Though initially identified as a requirement for districts, it has since been take off the table. Our staff is using a modified RTI pattern of strengths and weaknesses profile to identify students with SLD.
5. The Social Skills Curriculum pilot has been completed. It was hoped that a single curriculum could be found that met our student's needs thus providing continuity between programs and levels. Two curricula have been used in the district in various ways by different programs. An additional program was piloted in the Cross Categorical program at Wickliffe. It is now our belief that no single program will meet the extremely diverse needs of our students and the diverse environments in which they must function. Therefore, a "Social Skills Toolkit" is going to be assembled for each school that will contain a variety of materials. In addition, we hope to have a guide for teachers that explains the different materials and provides suggestions for their use.

Orton-Gillingham Reading Program Intervention Services

Research supporting best practices indicates that the Orton-Gillingham Reading Program designed for dyslexic students is most successful with students performing in the average to above average ability range (see definition of dyslexia attached). Research also indicates Orton Gillingham is most successful with those students who demonstrate the ability to focus and attend to instruction

The following information will be collected and used to make a determination about the appropriateness of Orton-Gillingham instruction.

- Documentation of IAT Team/IEP Team of previous unsuccessful interventions and their outcomes.
- Classroom performance data (DRA, DWA, Standards Based data)
- Other considerations such as familial history of dyslexia.

The following entrance and exit criteria have been established, in conjunction with the aforementioned background information, as guidelines for recommending that a student receive Orton-Gillingham instruction.

Entrance Criteria:

- Diagnostic Assessments of Reading (DAR) scores:
 - 1 year or more below grade level in oral reading fluency
 - 2 or more years below grade level in spelling (encoding) Spelling difficulties alone do not qualify for OG services.
 - 2 or more years below grade level in word recognition (decoding)
 - Word Meaning at or near grade level
 - Silent Reading Comprehension below grade level
- Qualitative Reading Inventory (QRI) scores:
 - Oral Reading below grade level instructionally
 - Comprehension below grade level instructionally

Exit Criteria:

- Completion of the Orton-Gillingham Basic Sequence (at least through sequence 2)
- Diagnostic Assessments of Reading (DAR) scores:
 - Oral Reading Fluency at or above grade level
 - Spelling improvement of one grade level minimum
 - Word Recognition no more than one grade level below
 - Word Meaning at grade level or above
 - Silent Reading Comprehension at grade level
- Qualitative Reading Inventory (QRI) scores:
 - Independent Oral Reading at grade level
 - Comprehension at grade level instructionally

Transition Options:

- Reduce number of days of Orton-Gillingham Instruction to fade program
- Transfer to small group for Reading-Writing Intervention Program
- Refer to building Literacy Team for additional recommendations

Orton-Gillingham Progression of Services Guidelines

Fall 2010

Teachers in the Upper Arlington City Schools have the following resources at their disposal for introducing students to phonics. Kindergarten – Fountas & Pinell, Touch Phonics; First Grade – New Phonics

First Round: If a student is having trouble reading and.....

- 1. Is in first grade AND there is not a known diagnosis of dyslexia, the student will be placed in regular education intervention in the same manner as any other student (i.e. Reading Recovery and/or Reading/Writing Intervention).**
- 2. Is in first grade AND there is a known diagnosis of dyslexia, the student will be placed in regular education intervention that uses a multi-sensory, phonetic approach to reading.**

Practice Beyond Initial Intervention with Reading Recovery:

- 1. If the student is placed in Reading Recovery does not recover from Reading Recovery, a multi-sensory, phonetic approach to reading in a small group will be delivered for one year.**
- 2. If the student is still experiencing difficulty after a year of a multi-sensory, phonetic approach to reading, and the student meets the OG criteria, the student will receive OG for 3 to 4 days per week for one year. Frequency will be determined by the OG teacher based on the severity of the reading difficulty.**

Guidelines for OG Intervention:

- 1. Upon completion of the first school year of OG intervention, the student's performance on the OAA will be used along with OG assessments to determine if the student will continue with OG.**
- 2. If the student passes the OAA in reading, the student will be phased into a Reading/Writing group for a transition period determined by the school Literacy Team.**
- 3. If the student fails the OAA in reading, OG will be continued no more than two times per week for one year.**
- 4. Upon completion of the second year of OG intervention, the student will be moved out of this intervention.**

It is the belief of the OG staff that after a student has received two years of OG training they have completed the basic instructional sequence outlined by Orton-Gillingham.

If the student is no longer in first grade when the reading difficulty begins, that student will begin the sequence by receiving one year of a multi-sensory, phonetic approach to reading.

If the student is coming from outside the district at the elementary level, and has already received OG training at their former school, the OG staff will determine where on the sequence that student should be placed. However, the student will not receive more than two additional years of OG support.

If the student is coming from outside the district at the middle or high school level and has already received OG training at their former school, the OG staff will provide transition services for up to two times a week.

Upper Arlington City School District

Bylaws & Policies

2460 - ODE - SPECIAL EDUCATION

INTRODUCTION

By adopting these Policies and Procedures, the Upper Arlington School District (the "District") is adopting written policies and procedures regarding the manner in which the District fulfills its obligations under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the *Ohio Operating Standards for Ohio Educational Agencies Serving Children with Disabilities* (hereafter referred to as the "Operating Standards"). The Operating Standards require that the District adopt written policies and procedures in a number of different areas, and the District has chosen to adopt these policies and procedures in order to satisfy the requirements of the Operating Standards. This document, while comprehensive, does not include every requirement set forth in the IDEA, the regulations implementing IDEA, the Operating Standards, the Ohio Revised Code (ORC) and/or the Ohio Administrative Code (OAC). The District recognizes its obligation to follow these laws, regardless of whether their provisions are restated in these Policies and Procedures.

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

The District ensures that a free appropriate public education (FAPE) is made available to all children with disabilities between the ages of 3 and 21, inclusive, in accordance with IDEA and the Operating Standards for whom the School District is the child's school district of residence.

A. Residential Placement

If placement by the District of a child with a disability in a public or private residential program is necessary to provide special education and related services, the program, including non-medical care and room and board, is at no cost to the parents of the child.

B. Assistive Technology

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

C. Extended School Year (ESY) Services

The District ensures that extended school year services are provided if a child's individualized education program (IEP) team determines that the services are necessary for the provision of FAPE to the child. If a child is transitioning from Part C services, the District considers extended school year (ESY) services as part of the IEP process.

D. Nonacademic Services

The District takes steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities as provided to students without disabilities.

Nonacademic and extracurricular services and activities include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school district, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the school district and assistance in making outside employment available.

E. Program Options and Physical Education

The District takes steps to ensure that children with disabilities served by the District have available to them the variety of educational programs and services available to nondisabled children served by the school district, including art, music, industrial arts, consumer and homemaking education and vocational education. The District ensures that a child with a disability receives appropriate physical education services unless the District does not provide physical education to children without disabilities in the same grades. The District affords each child with a disability the opportunity to participate in a regular physical education program available to non-disabled children, unless the child is enrolled full time in a separate facility or needs specially designed physical education, as prescribed in the child's IEP. The District provides a specially designed physical education program if prescribed by the IEP.

For preschool children, the District considers adapted physical education or related services, as appropriate, in conjunction with center-based or itinerant teacher services, and considers the factors set forth in 3301-51-11(F) of the Operating Standards.

F. Transportation

The District provides, as a related service, transportation service in accordance with IDEA and the Operating Standards.

CONFIDENTIALITY

The District ensures protection of the confidentiality of any personally identifiable information in regard to the collection, use, storage, disclosure, retention, and destruction of information. The District gives notice to all parents of students receiving special education and related services that is adequate to fully inform parents about confidentiality requirements, in accordance with 3301-51-04(C) of the Operating Standards.

A. Access Rights

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

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

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

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

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

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

B. Amendment of Records/Hearing Process

A parent who believes that information in the education records collected, maintained, or used are inaccurate, misleading or violate the privacy or other rights of the child may request that the District amend the information. The District decides whether to amend the information in accordance with the request within a reasonable period of time. If the District decides to refuse to amend the information in accordance with the request, it informs the parent of the refusal and advises the parent of the right to a hearing as set forth below and in 3301-51-04 of the Operating Standards.

1. Hearing Procedure

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

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

2. Results of Hearing

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

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

Any explanation placed in the records of a child are:

- a. maintained by the District as part of the records of the

child as long as the record or contested portion is maintained by the District; and

- b. disclosed any time the records of the child or the contested portion is disclosed by the District to any party.

C. Parental Consent Prior to Disclosure of Records

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

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

1. specify the records to be disclosed;
2. state the purpose of the disclosure; and
3. identify the party or class of parties to whom the disclosure may be made.

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

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

D. Transfer of Rights at Age of Majority

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

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

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

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

E. Disciplinary Information and Reports to Law Enforcement

The District includes in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmits the statement to Special Education Model Policies and Procedures July 1, 2009 Page 7 of 40 the same extent that disciplinary information is included in, and transmitted with, the records of nondisabled children.

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

A statement of disciplinary action shall:

1. specify the circumstances that resulted in the disciplinary action and provide a description of the disciplinary action taken if the disciplinary action was taken because the child:
 - a. carried a weapon to or possessed a weapon at school, on school premises or to or at a school function;
 - b. knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or
 - c. inflicted serious bodily injury upon another person while at school, on school premises or at a school function; and
2. include any information that is relevant to the safety of the child and other individuals involved with the child.

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

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

F. Destruction of Records

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

CHILD FIND

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

This includes students who are: 1) Advancing from grade to grade; 2) Enrolled by their parents in private elementary or private secondary schools, including religious schools, located in our District (regardless of the severity of their disability); 3) Wards of the state and children who are highly mobile, such as migrant and homeless children; and 4) Home-schooled.

A. Responsibility for Determining Eligibility

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

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

B. Child Identification Process

1. General

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

2. **Identification of Children Between the Ages of Birth to Age 3**

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

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

Parents may opt out of and/or opt not to be referred for Part C services. They may request an evaluation from the District to determine if their child has a disability that may require special education. These parents are entitled to an evaluation from the District consistent with 3301-51-11 of the Operating Standards.

3. **Transition to Special Education From Help Me Grow (HMG)**

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

- a. If invited by a representative of HMG (and with parent permission), a District representative attends a transition conference to discuss transition from early intervention services to preschool for a child suspected of having a disability.
- b. If the parents request, the District invites the Part C service coordinator to the initial IEP meeting.

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

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

4. **Coordination With Other Agencies**

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

- a. service coordination for preschool children with disabilities, 3 through 5 years of age, in a manner consistent with the state interagency agreement for service coordination with Head Start; and
- b. transition of children eligible for special education and related services as a preschool child at age 3.

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

C. **Data Collection**

The District maintains an education management information system and submits data to ODE pursuant to A.C. 3301-14-01. The District's collection of data includes information needed to determine if significant disproportionality based on race and ethnicity is occurring in the District with respect to the identification of children as children with disabilities, the placement of children in educational settings and the incidence, duration and type of disciplinary actions.

PROCEDURAL SAFEGUARDS

A. **Prior Written Notice**

The District provides prior written notice as required by IDEA and Operating Standards. The District gives written notice to the parents of a child with a disability a reasonable time before the District: (a) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE; or (b) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE.

The District uses the form required by ODE-OEC Prior Written Notice PR-01.

1. **Content of Prior Written Notice**

The prior written notice, in accordance with the IDEA regulations and the Operating Standards, includes the following information:

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

2. **Communication of the Prior Written Notice**

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

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

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

B. **Procedural Safeguards Notice**

Parents of a child with a disability are entitled to specific procedural

safeguards under IDEA and the Operating Standards.

Whose IDEA Is This? A Parent's Guide to the Individuals with Disabilities Education Improvement Act of 2004, developed by ODE-OEC, includes a full explanation of these procedural safeguards as required by IDEA and 3301-51-02, 3301-51-04 and 3301-51-05 of the Operating Standards.

The District provides parents with a copy of *Whose IDEA Is This?* only one time a school year, except a copy is also given to parents in each of the following circumstances:

1. the initial referral or parental request for evaluation;
2. the receipt of the first due process complaint in a school year;
3. a change in placement for disciplinary action; and
4. when requested by the parents or the child who has reached the age of majority.

In providing *Whose IDEA is This?*, the District follows the procedures for communication that are described above under Prior Written Notice.

C. **Parental Consent**

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

1. **Actions Requiring Informed Written Parental Consent**

The District obtains written consent from the parents before:

- a. conducting an initial evaluation to determine if a child is eligible for special education;
- b. initially providing special education and related services;
- c. conducting a reevaluation when assessments are needed;

- d. making a change in placement on the continuum of alternative placement options (i.e., regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions); and
- e. releasing personally identifiable information as detailed in Chapter II, Section C.

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

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

2. Change In Placement

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

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

3. Parents' Failure to Respond or Refusal to Provide Consent

The District makes "reasonable efforts" to contact parents and obtain written parental consent that may include:

- a. written correspondence;
- b. phone calls;
- c. electronic communications; and/or
- d. visits to the home or parents' places of employment.

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

4. Initial Evaluation

If the parents of a child enrolled in the District or seeking to be enrolled in the District fail to respond to the District's efforts to obtain consent or refuse consent for the initial evaluation, the District may:

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

5. Reevaluation

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

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

- a. agree with the parents that a reevaluation is unnecessary;
- b. conduct a reevaluation by utilizing existing data as a part of the reevaluation;
- c. request a due process hearing and engage in conflict resolution (e.g., resolution meeting and/or mediation) to convince the parents to provide their consent; or
- d. decide not to pursue having the child reevaluated.

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

6. Initial Provision of Special Education and Related Services

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

If the parents fail to respond or refuse consent, the District provides the parents with prior written notice.

7. **Revocation of Consent**

The parents may revoke consent for and remove the child from special education and related services. Once the District receives written revocation of consent, it provides the parents with prior written notice.

The District is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

If a parent has provided written revocation of consent, the District does not file a due process complaint or engage in conflict resolution to attempt to obtain agreement or a ruling that special education and related services may be provided to the child.

D. **Independent Educational Evaluation**

Parents who disagree with an evaluation that was completed or obtained by the District may request an independent educational evaluation at public expense. Parents are entitled to request only one independent educational evaluation at public expense each time the District conducts an evaluation with which the parents disagree.

1. **Independent Educational Evaluation at Public Expense**

If the parents request an independent educational evaluation at public expense, the District either:

- a. ensures that an independent evaluation is provided at public expense; or
- b. files a due process complaint requesting a hearing to show that the District's evaluation is appropriate.

If the District files a due process complaint and the final decision is that the District's evaluation is appropriate, the parent still has the right for an independent educational evaluation, but not at the public expense.

2. **Parent Initiated Evaluations**

If a parent obtains an independent educational evaluation at public expense or shares with the District an evaluation obtained at private expense, the District considers that evaluation, if it meets District criteria, in any decision made with respect to the

provision of FAPE to the child.

3. District 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 which the District uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

E. Conflict Resolution

1. Administrative Reviews

Within twenty (20) school days of receipt of a complaint from a child's parents or another educational agency, the District's Superintendent, or the Superintendent's designee, conducts a review, may hold an administrative hearing and notifies all parties of the decision in writing.

- a. All parties have the right to invite others, including legal counsel, to participate in the review.
- b. The review is conducted at a time and place convenient to all parties.
- c. Every effort is made to resolve any disagreements at the administrative review.

2. Mediation

At its discretion, the District participates in the resolution of disputes with other parties through the voluntary mediation processes available through ODE-OEC.

3. Impartial Due Process Hearing/Resolution Meetings

Due process complaints filed against the District proceed in the manner set forth in 3301-51-05(K) of the Operating Standards.

The District convenes a resolution meeting before the initiation of a due process hearing. The resolution meeting:

- a. occurs within 15 days of the receipt of notice of the parents' due process complaint;

- b. includes a representative of the District who has decision-making authority on behalf of the District;
- c. does not include the District's attorney unless the parents are accompanied by an attorney;
- d. provides an opportunity for the parents to discuss their due process complaint and the facts the complaint is based on; and
- e. provides the District an opportunity to resolve the dispute.

The District does not hold a resolution meeting if the parents and the District agree in writing to waive the meeting or agree to use the mediation process. Also, if the District files the due process complaint, it is not required to hold a resolution meeting.

The District, if it is the child's school district of residence, is responsible for conducting the impartial due process hearing utilizing the hearing officer appointed by ODE-OEC. The District follows the procedures required by 3301-51-05(K)(10)-(15) of the Operating Standards when conducting a hearing.

The District provides the parents with one copy of the written, or at the option of the parents, an electronic verbatim record of the hearing and findings of fact and decision at no cost. The decision is final except that any party to the hearing may appeal the decision to ODE-OEC.

The District pays for the costs incurred for the hearing except for expert testimony, outside medical evaluations, witness fees, subpoena fees and cost of counsel will be paid by the party requesting the services. The District compensates the hearing officer as provided in 3301-51-05(K)(16)(d) of the Operating Standards. If the hearing was requested by another agency, the District shares the costs of the hearing except for the costs identified in the preceding sentence.

Any further appeals or actions proceed in accordance with 3301-51-05 of the Operating Standards.

F. Child's Status During Due Process Proceedings/Code of Conduct Violations

1. Child's Status During Due Process Proceedings

The District ensures that a child remains in the current educational placement during the pendency of any administrative or judicial proceeding regarding a due process complaint, unless the state or the District and the parents of the child agree otherwise. If the state level review officer agrees with the child's parents that a change in placement is appropriate,

that placement is treated as an agreement between the state and the parents.

If the complaint involves an application for initial admission to the District, the child, with the consent of the parents, is placed in the District until the completion of all proceedings.

If the complaint involves an application for services from a child who is transitioning from Part C to Part B, the District provides those special education and related services that are not in dispute, if the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services.

2. **Disciplinary Proceedings**

The District may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of 3301-51-05 of the Operating Standards, is appropriate for a child with a disability who violates a code of student conduct.

a. Changes in placement less than 10 consecutive school days

The District may remove a child with a disability who violates a code of student conduct from the child's current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement).

The District considers on a case-by-case basis whether a pattern of removals constitutes a change of placement. A change in placement occurs if:

- 1) the removal is for more than 10 consecutive school days, **OR**
- 2) the child has been subjected to a series of removals that constitute a pattern:
 - a) because the series of removals totals more than 10 school days in a school year;
 - b) because the child's behavior is substantially similar to the child's behavior

in previous incidents that resulted in the series of removals; and

- c) because of such additional factors as the length of each removal, the total amount of time the child has been removed and the proximity of the removals to one another.

b. Services during removal from current placement

The District provides services to a child removed from the child's current placement as follows:

- 1) If the child has been removed from the child's current placement for 10 school days or less in the school year, services are provided only to the extent that services are provided to a child without disabilities who is similarly removed.
- 2) After a child with a disability has been removed from the child's current placement for 10 school days in the same year (under circumstances in which the current removal is for not more than 10 consecutive days and is **not** a change in placement), the District provides services, as determined by school personnel in consultation with at least one of the child's teachers, so as 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.
- 3) If the removal is a change in placement, the child's IEP team determines appropriate services; and
- 4) If a child with a disability is removed from the child's current placement for either more than 10 consecutive days for behavior that is determined **not** to be a manifestation of the child's disability or under circumstances that constitute special circumstances, as defined below, the District ensures that the child:
 - a) continues to receive educational services so as 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; and
 - b) receives, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior

violation so that it does not recur.

c. **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, the school district, the parent and relevant members of the child's IEP team (as determined by the parent and the school district) must review all relevant information in the child's file, including the child's IEP, any teacher observations and any relevant information provided by the parents to determine if the conduct was a manifestation of the child's disability. The District determines that the conduct is a manifestation of the child's disability:

- 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 IEP.

If the District, parents and relevant members of the IEP team determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the District takes immediate steps to remedy those deficiencies.

- 1) If the conduct was a manifestation of the child's disability, the IEP team either:
 - a) starts to conduct a functional behavioral assessment within 10 days of the manifestation determination and complete the assessment as soon as practicable, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implemented a behavioral intervention plan for the child; **or**
 - b) if a behavioral intervention plan already has been developed, within 10 days of the manifestation determination, reviews the behavioral intervention plan and the implementation of the plan, and modifies it, as necessary, to address the behavior subject to disciplinary action; **and**
- 2) Except for the special circumstances, as defined

below, returns the child to the placement from which the child was removed, unless the parent and the District agree to a change of placement as part of the modification of the behavioral intervention plan.

d. Special circumstances

The District may remove a child to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

- 1) carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of ODE or a school district;
- 2) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of ODE or a school district; or
- 3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of ODE or a school district.

The District defines the terms controlled substance, weapon, illegal drug and serious bodily injury in accord with 3301-51-05(K)(20)(h)(i) of the Operating Standards.

On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision and provide the parents with the procedural safeguards notice described in Section B above.

e. Expedited Due Process Hearing

The District or the parents may submit a due process complaint requesting an expedited due process hearing to appeal a decision made during disciplinary procedures.

- 1) The District may request an expedited due process hearing if it believes that maintaining the current placement of a child is substantially likely to result in injury to the child or to others.

- 2) The parents may request an expedited due process hearing to appeal decisions regarding placement for disciplinary removals or the manifestation determination.

The District is responsible for arranging the expedited due process hearing utilizing the hearing officer appointed by ODE-OEC. The District follows the procedures that apply for other due process hearings except that the expedited due process hearing must occur within 20 school days after the date the due process complaint is filed. The hearing officer then must make a determination within 10 school days after the hearing. The District follows the expedited timelines and the procedures set forth in 3301-51-05(K)(22)(c)-(d) of the Operating Standards.

G. Transfer of Parental Rights at Age of Majority/Student Notification

Once a student reaches the age of majority, unless the student has been determined incompetent under State law:

1. the School District provides notices to both the student and the parents;
2. all rights transfer to the student; and
3. all rights transfer to students who are incarcerated in an adult or juvenile, State, or local correctional institution.

At least one (1) year before the child's 18th birthday, the District informs the child of the parental rights that will transfer to the child upon reaching the age of majority (age 18). The District documents this notice on the child's IEP PR-07 form.

H. Surrogate Parents

The District ensures that the rights of a child are protected when:

1. no parent, as defined in 3301-51-01 of the Operating Standards, can be identified;
2. the District, after making reasonable efforts, cannot locate a parent;
3. the child is a ward of the state; or

4. the child is an unaccompanied homeless youth as defined by 3301-51-05(E)(1)(d) of the Operating Standards.

One way in which the District protects the rights of such children is through the assignment of surrogate parents where appropriate. The District has a method for determining when a child needs a surrogate parent and for assigning a surrogate parent to the child, and complies with the requirements of 3301-51-05(E) of the Operating Standards regarding surrogate parents.

EVALUATION

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

A. Initial Evaluation

1. Timing and Initiation

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

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

The initial evaluation:

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

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

The evaluation team consists of a group of qualified professionals

and the parents.

2. The Evaluation Plan and Evaluation Team Report

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

- a. Review of existing evaluation data on the child, including:
 - 1) evaluations and information provided by the parents of the child;
 - 2) current classroom-based, local or state assessments and classroom-based observations;
 - 3) observations by teachers and related services providers;
 - 4) data about the child's progress in the general curriculum, or, for the preschool-age child, data pertaining to the child's growth and development;
 - 5) data from previous interventions, including:
 - a) interventions required by rule 3301-51-06 of the Operating Standards and
 - b) for the preschool child, data from early intervention, community, or preschool program providers; and
 - 6) any relevant trend data beyond the past twelve months, including the review of current and previous IEPs; and
- b. On the basis of that review and input from the child's parents, identify what additional data, if any, are needed to determine:
 - 1) whether the child is a child with a disability, as defined in 3301-51-01 of the Operating Standards, and the educational needs of the child;
 - 2) in the case of a reevaluation of a child, whether the child continues to have such a disability and the educational needs of the child;

- 3) the present levels of academic achievement and related developmental needs of the child;
- 4) whether the child needs special education and related services; or
- 5) in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- 6) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

3. Conduct Of Evaluation

In conducting the evaluation, the District:

- a. uses a variety of assessment tools and strategies to gather relevant functional, developmental and academic information about the child, including information provided by the parent, that may assist in determining:
 - 1) whether the child is a child with a disability as defined in 3301-51-01(B)(10) of the Operating Standards; and
 - 2) the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child to participate in appropriate activities);
- b. does not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
- c. uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

The District ensures that:

- a. assessments and other evaluation materials used to assess a child:

- 1) are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - 2) are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information about what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;
 - 3) are used for the purposes for which the assessments or measures are valid and reliable;
 - 4) are administered by trained and knowledgeable personnel; and
 - 5) are administered in accordance with any instructions provided by the producer of the assessments;
- b. assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient;
- c. assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the child's impaired sensory, manual or speaking skills (unless those skills are the factors that the test purports to measure);
- d. A school age child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities;
- e. preschool children are assessed in the following developmental areas: adaptive behavior, cognition, communication, hearing, vision, sensory/motor function, social-emotional functioning and behavioral function;
- f. assessments of children with disabilities who transfer from one school district to another school district in the same school year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with 3301-51-06(B)(5)(b) and (B)(6) of the Operating Standards, to ensure prompt completion of

the full evaluations;

- g. in evaluating each child with a disability under 3301-51-06 (E)-(G) of the Operating Standards, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified;
- h. assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided;
- i. medical consultation shall be encouraged for a preschool or school-age child on a continuing basis, especially when school authorities feel that there has been a change in the child's behavior or educational functioning or when new symptoms are detected; and
- j. for preschool-age children, as appropriate, the evaluation shall include the following specialized assessments:
 - 1) physical examination completed by a licensed doctor of medicine or doctor of osteopathy in cases where the disability is primarily the result of a congenital or acquired physical disability;
 - 2) vision examination conducted by an eye care specialist in cases where the disability is primarily the result of a visual impairment; and
 - 3) an audiological examination completed by a certified or licensed audiologist in cases where the disability is primarily the result of a hearing impairment.

B. Eligibility Determination And Evaluation Team Report

1. Completion of the Evaluation Team Report

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

- a. A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, in accordance with the Operating Standards; and
- b. The District provides a copy of the evaluation report and the documentation of determination of eligibility at no cost

to the parent.

The written evaluation team report shall include:

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

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

2. **Determination of Eligibility**

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

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

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

- a. Draws upon information from a variety of sources, including aptitude and achievement tests, state and district wide assessments, parent input and teacher recommendations, as well as information about the child's physical condition, social or cultural background and adaptive behavior; and

- b. Ensures that information obtained from all of these sources is documented and carefully considered.

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

C. **Reevaluations**

The District conducts reevaluations of a child with a disability:

1. if the District determines that the child's educational or related services needs, including improved academic achievement and functional performance, warrant a reevaluation; or
2. if the child's parent or teacher requests a reevaluation; or
3. when a child transitions from pre-school to school-aged services; or
4. in order to make a change in disability category.

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

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

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

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

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

1. **Determining the Existence of a Specific Learning Disability**

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

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

- 1) oral expression;
- 2) listening comprehension;
- 3) written expression;
- 4) basic reading skill;
- 5) reading fluency skills;
- 6) reading comprehension;
- 7) mathematics calculation; or
- 8) mathematics problem-solving;

AND

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

OR

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

Alternatively, the District may choose a third method of evaluation,

for determining if a child has a SLD. The District seeks prior approval from ODE-OEC if it chooses to use an alternative research-based assessment procedure to determine if a child has a SLD.

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

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

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

The District will not use this process to delay unnecessarily a child being evaluated to determine eligibility for special education services.

3. Additional Requirements for SLD Determination

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

Inclusion of additional required group members for SLD determination

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

- a. In the case of a school-age child, the child's regular teacher (or if the child does not have a regular teacher, the District includes a regular classroom teacher qualified to teach a child of the child's age).
- b. In the case of children less than school-age, an individual qualified by ODE to teach a child of the child's age; and
- c. At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist or remedial reading teacher.

Observation requirements

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

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

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

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

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

- a. data demonstrating that prior to, or as part of, the referral

process, the child received appropriate instruction in regular education settings delivered by qualified personnel; and

- b. data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, the results of which were provided to the child's parents.

Obtaining parental consent to evaluate

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

- a. if prior to the referral, the child does not make adequate progress after an appropriate period of time when provided with appropriate instruction. To make this determination, the District considers:
 - 1) data demonstrating that prior to, or as part of, the referral process, the child received appropriate instruction in regular education settings delivered by qualified personnel; and
 - 2) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, the results of which were provided to the child's parents; and
- b. whenever a child is referred for an evaluation.

Consideration of exclusionary factors

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

- a. a visual, hearing, or motor disability;
- b. mental retardation;
- c. emotional disturbance;
- d. cultural factors;
- e. environmental or economic disadvantage; or

f. LEP.

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

INDIVIDUALIZED EDUCATION PROGRAMS (IEPs)

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

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

The initial IEP is developed within whichever of the following time periods is the shortest: a) Within 30 calendar days of the determination that the child needs special education and related services; b) Within 90 days of receiving informed parental consent for an evaluation; or c) Within 120 calendar days of receiving a request for an evaluation from a parent or school district (unless the evaluation team has determined it does not suspect a disability).

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

A. Members of the IEP Team

The IEP team includes:

1. the child's parents;
2. not less than one of the child's regular education teachers, if the child is or may be participating in the regular education environment;
3. not less than one special education teacher of the child or, where appropriate, not less than one special education provider of the child;
4. a representative of the school district who:
 - a. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

- b. knows the general education curriculum; and
- c. knows about the availability of resources of the school district;
5. someone who can interpret the instructional implications of the evaluation results, who may be one of the team noted previously;
6. at the discretion of the parents or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
7. the child, whenever appropriate.

The child must be invited if a purpose of the meeting is the consideration of postsecondary goals for the child and the transition services needed to assist the child in reaching those goals.

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

B. Parental Participation

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

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

A Notice to a Parent Regarding an IEP meeting:

1. indicates the purpose, time and location of the meeting and who will be in attendance; and
2. informs the parents of the provisions of the Operating Standards regarding the participation of other individuals who have knowledge or special expertise about the child and the participation of the Part C service coordinator or other representatives of the part C system at the initial IEP team

meeting for a child previously served under Part C. See 3301-51-07(J)(2)(a)(ii) of the Operating Standards.

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

1. indicates that a purpose of the meeting will be the development of a statement of the transition needs of the child; and
2. indicates that the District will invite the child.

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

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

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

C. Contents of an IEP

The District uses ODE's required form, PR-O7, for its IEPs. In developing each child's IEP, the IEP team considers: 1) the strengths of the child; 2) the concerns of the parents for enhancing the education of their child; 3) the results of the initial or most recent evaluation of the child; 4) the results of the child's performance on any state or district-wide assessment programs, as appropriate; and 5) the academic, developmental and functional needs of the child.

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

1. Contents of Every IEP

The District's IEPs include all of the following:

- a. A statement that discusses the child's future and documents planning information.
- b. A statement of the child's present levels of academic and functional performance, including:
 - 1) how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
 - 2) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities.
- c. A statement of measurable annual goals, including academic and functional goals and benchmarks or short-term objectives designed to:
 - 1) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - 2) meet each of the child's other educational needs that result from the child's disability.
- d. A description of:
 - 1) how the child's progress toward meeting the annual goals described in the IEP will be measured; and
 - 2) when periodic reports on the progress the child is making toward meeting the annual goals will be provided.
- e. A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child:
 - 1) to advance appropriately toward attaining the annual goals;

- 2) to be involved in and make progress in the general education curriculum in accordance with the Operating Standards, and to participate in extracurricular and other nonacademic activities; and
 - 3) to be educated and participate with other children with disabilities and nondisabled children, as appropriate, in the activities described in 3301-51-07(H)(1)(e) of the Operating Standards.
- f. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular classroom and in activities.
 - g. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments consistent with Section 612(a)(16) of the IDEA.
 - h. If the IEP team determines that the child must take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:
 - 1) the child cannot participate in the regular assessment; and
 - 2) the particular alternate assessment selected is appropriate for the child; and
 - i. The projected date for the beginning of the services and modifications described in the IEP and the anticipated frequency, location and duration of those services and modifications.

2. Transition Services

The District's IEPs address transition services as follows:

- a. For children age 14 or over (or younger, if determined appropriate by the IEP team), the IEP includes a statement, updated annually, of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program.); and
- b. Beginning not later than the first IEP to be in effect when the child turns 16 (or younger if determined appropriate by the IEP team), the IEP includes:

- 1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and
- 2) the transition services (including courses of study) needed to assist the child in reaching those goals.

3. Transfer of Rights at Age of Majority

Beginning not later than one year before the child reaches 18 years of age, the IEP includes a statement that the child has been informed of the child's rights under Part B of the IDEA that will transfer to the child on reaching the age of majority.

4. Nonacademic Services, Physical Education, Extended School Year and Transportation

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

D. Review and Amendment of an IEP

The District ensures that the IEP team:

1. reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
2. revises the IEP, as appropriate, to address:
 - a. any lack of expected progress toward the annual goals and in the general education curriculum;
 - b. the results of any reevaluation;
 - c. information about the child provided to, or by, the parents as part of an evaluation or reevaluation;
 - d. the child's anticipated needs; or
 - e. other matters; and

3. reconvenes if an agency, other than the school district, fails to provide the transition services described in the IEP.

Changes to the IEP may be made either at an IEP team meeting, or by a written document amending or modifying the IEP, if the parent of the child and the District agree not to convene an IEP team meeting for the purposes of making those changes. When an IEP is amended, the District sends a copy of the amended IEP to the parent within thirty days of the date the IEP was amended.

LEAST RESTRICTIVE ENVIRONMENT (LRE)

The District ensures that, to the maximum extent appropriate, children with disabilities, including children in public or nonpublic institutions or other care facilities, are educated with children who are nondisabled. Placement of students with disabilities in special classes, separate schooling or other removal from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services, modifications and/or accommodations cannot be achieved satisfactorily.

The District ensures that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

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

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

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

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

PARENTALLY PLACED NONPUBLIC SCHOOL CHILDREN

A. Child Find

1. Generally

The District locates, identifies and evaluates all children with disabilities who are enrolled by their parents in chartered and nonchartered nonpublic schools, including religious elementary and secondary schools located within the District's geographical boundaries.

The District consults with the nonpublic school representatives and representatives of parents of parentally placed nonpublic school children with disabilities regarding the child find process, including:

- a. how parentally placed nonpublic school children suspected of having a disability can participate equitably;

and

- b. how parent, teachers and nonpublic school officials will be informed of the child find process.

After timely and meaningful consultation with representatives of nonpublic schools, the District carries out child find activities for parentally placed nonpublic school children, including children whose parents live out-of-state. These activities are similar to the child find activities the District conducts for its public school children and ensures an accurate count of children with disabilities. The District completes these activities in a time period comparable to that for children attending its public schools. See Chapter V, Section A(1).

The District follows all IDEA and FERPA confidentiality requirements when serving children with disabilities attending nonpublic schools located within the District's boundaries and obtains parental consent before releasing any personally identifiable information about a child to officials of the child's district of residence or the nonpublic school in which the child is enrolled.

The District conducts, either directly or through contract, a full and individual initial evaluation of any parentally placed nonpublic school child suspected of having a disability who is enrolled in a nonpublic school within the District's boundaries. The District obtains written parental consent before conducting an initial evaluation.

- a. If the parents of a parentally placed nonpublic school child do not provide consent or fail to respond to the District's request for consent to evaluate the child, the District may not use mediation or due process procedures to pursue the evaluation. The District does not have to consider this child as eligible for services.
- b. If the parents do not make clear their intent to keep their child enrolled in the nonpublic school, the District provides the parents of a child who is determined to be eligible for special education services written documentation stating that the child's school district of residence is responsible for making FAPE available to the child.
- c. The District sends a copy of this documentation to the child's district of residence, provided the District obtains written parental consent to release the information.

The District conducts reevaluations of parentally placed nonpublic school children with disabilities receiving special education and any related services to determine continued eligibility for services. The District conducts reevaluations no more than once a year, unless the parents and the District agree otherwise, and at least once every three years, unless the parents and the district agree that a reevaluation is unnecessary.

2. **Autism Scholarship Program Participants**

The District assumes responsibility for the initial evaluations and re-evaluations of children who reside in the District and desire to participate in the Autism Scholarship Program. The district where the nonpublic school is located conducts all reevaluations for children with disabilities participating in the Autism Scholarship Program. (See 3301-51-08(R)(1) of the Operating Standards). The District creates the IEP that is required for eligible children who reside within the District to participate in the Autism Scholarship Program.

B. **Consultation**

The District consults with nonpublic school representatives and representatives of parents who have placed their children with disabilities in nonpublic schools in a timely and meaningful way during the design and development of special education and related services for the children regarding the following:

1. **Child Find**

See above requirements.

2. **Proportionate Share of Funds**

- a. The determination of the proportionate share of federal IDEA Part B funds available to serve parentally-placed nonpublic school children with disabilities.
- b. The determination of how the proportionate share of those funds was calculated; and
- c. Consideration of the number of children and their needs and location.

"Proportionate share" refers to the amount of federal IDEA Part B funds the District must expend to provide the group of parentally-placed nonpublic school children with disabilities with equitable participation in services funded with federal IDEA Part B funds. The District follows the formula in 3301-51-05(E)(1)–(4) of the Operating Standards to calculate the proportionate amount.

3. **Consultation Process**

- a. How the consultation process will bring together District representatives, nonpublic school officials and representatives of parentally-placed nonpublic school children with disabilities.

- b. How the process will take place throughout the school year to ensure that parentally-placed nonpublic school children with disabilities identified through the child find can meaningfully participate in special education and related services.

4. Provision of Special Education and Related Services

- a. How, where and by whom special education and related services will be provided.
- b. The types of services, including direct services and alternate service delivery mechanisms.
- c. How special education and related services will be apportioned if funds are insufficient to serve all parentally placed nonpublic school children; and
- d. How and when these decisions will be made.

5. Written Explanation by the School District

How the District will provide the nonpublic school officials a written explanation of the reasons why the District chose not to provide services directly or through a contract if the District disagrees with the views of the nonpublic school officials on the provision of services or the types of services.

The District obtains a written affirmation signed by representatives of the participating nonpublic schools that timely and meaningful consultation has occurred. If representatives of the participating nonpublic schools do not provide the affirmation within a reasonable period of time or choose not to participate under the proportionate share provisions of IDEA and engage in consultation, the District documents its consultation attempts and forwards the documentation to the ODE-OEC. If a nonpublic school located within the boundaries of the District chooses not to participate, the parents may contact the District to request services for the child.

C. Rights to Services

The District is not required to pay for the cost of education, including special education and related services, of a child with a disability, enrolled at a nonpublic school or facility if:

- 1. the child's district of residence made FAPE available to the child; and

2. the parents elected to place the child in the nonpublic school.

The District includes these children and their needs in the population being considered when making decisions about services to be provided to parentally-placed nonpublic school children with disabilities.

If the parents make clear their intention to keep their child with a disability enrolled in the nonpublic school, the child's district of residence does not need to develop an IEP for the child. If the child with a disability re-enrolls in the District, the District makes FAPE available.

D. Equitable Services Determined

The District makes the final decisions about the services to be provided through a services plan to eligible parentally-placed nonpublic school children with disabilities who are attending nonpublic schools within the District's geographic boundaries. The District makes these decisions after consultation with nonpublic school representatives and parents of parentally-placed nonpublic school children and through meetings to develop, review and revise services plans. A child with a disability attending a nonpublic school does not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

E. Equitable Services Provided

1. The Services Plan

- a. The District, whether or not it is the child's school district of residence, convenes the services plan meeting, conference call, or video conference for each eligible child who will receive special education and any related services for children who attend nonpublic schools located within the District's geographical boundaries.
- b. The District determines required participants at the services meeting.
- c. The District ensures that a nonpublic school representative participates in the development or revision of the services plan.
- d. The District conducts a meeting, conference call, or video conference at least annually to review and revise, if appropriate, each child's services plan.
- e. The District uses the ODE required Services Plan PR-09 form for individually developing a services plan for each participating child that describes the specific special education and related services that the District will provide to the child. Parentally-placed nonpublic school children with disabilities may receive a different amount of services

than children with disabilities enrolled in the District.

2. Provision and Location of Services

- a. District personnel provide services to parentally-placed nonpublic school children who attend nonpublic schools located within the District's geographical boundaries or the District provides services through a contract with an individual, association, agency, organization or other entity.
- b. The District ensures that special education and related services, including materials and equipment, provided to parentally-placed nonpublic school children with disabilities are secular, neutral and non-ideological.
- c. The District will determine where services will be provided. Services may be provided on or off the premises of the nonpublic school. The District may provide services at the nonpublic school with the permission of that school.

3. Transportation

- a. The District provides transportation to parentally-placed nonpublic school children with disabilities who attend nonpublic schools located within the District's geographical boundaries if the services being provided under IDEA are being delivered at a location other than the nonpublic school the child is attending. The District provides transportation:
 - 1) from the child's nonpublic school or the child's home to the site other than the nonpublic school; and
 - 2) from the service site to the nonpublic school or to the child's home depending on the timing of the services.
- b. The District may include the cost of transportation to special education and related services that are being delivered at a location other than the nonpublic school in calculating whether it has met the requirements of spending a proportionate amount of federal funds that it receives to serve children with disabilities.
- c. The District provides transportation to all children, with and without disabilities, who reside within the District and who are parentally placed in chartered nonpublic schools following the requirements in ORC 3327.01.

F. Due Process Complaints and Complaints to ODE

Due process rights do not apply to the provision of special education and related services the District has agreed to provide through a services plan. However, the parents of a child with a suspected disability, or a child identified as having a disability, who is enrolled in a nonpublic school, have the right to file a due process complaint against the District where the nonpublic school is located regarding that District's failure to meet the child find requirements, including location, identification, evaluation and reevaluation of the child.

If the District receives a due process complaint requesting a due process hearing from the parents of parentally-placed nonpublic school child, the District follows the procedures that apply to other due process complaints.

The parents of a child with a disability, who has been unilaterally placed in a nonpublic school, have the right to file a formal written complaint with ODE-OEC regarding a number of different issues, which are listed in 3301-51-08(L)(3) of the Operating Standards.

Adopted 10/12/09