

## Northeast Educational Cooperative Comprehensive Plan

**Free and Appropriate Public Education (FAPE) 34 C.F.R. §§ 300.101-300.108, 300.110; ARSD 24:05:13:02**

The district/cooperative and all member schools/districts will make available to all children with disabilities residing in the district(s) between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 300.530(d); 24:05:26 and 24:05:26.01, ARSD.

**State monitoring -- Primary focus. ARSD 24:05:20:18.01.** The department shall monitor the implementation of this article, enforce this article in accordance with §§ 24:05:20:23.03 and 24:05:20:23.04, and annually report on performance under this article. The primary focus of the department's monitoring activities shall be on:

(1) Improving educational results and functional outcomes for all children with disabilities; and

(2) Ensuring that public agencies meet the program requirements under Part B of the IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

As a part of its responsibilities under this section, the department shall use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in § 24:05:20:18.02 and the indicators established by the U.S. Secretary of Education for the state performance plan.

The Northeast Educational Cooperative has formally adopted the following policies and procedures as their comprehensive plan for special education. This document intends to identify the responsibilities of the district and the Agency.

CERTIFICATION- I certify that I have read and reviewed the above assurance and will comply with all provisions of applicable federal and state laws.

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Signature of Authorized Official

Date

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Typed Name and Title

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Address/State/Zip

Telephone Number

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## Section I.

Communication between the agency and the district is vital to the success of the student. This includes communicating about meetings, evaluations, timelines, etc. The special education teacher for each NESC program will communicate to the superintendent and/or special education director of the resident district information regarding meetings, evaluations, timelines, and other information. The special education teacher will ensure that the resident district has access to and/or copies of the most recent special education documentation for students in the NESC program.

## Section II. Child Count

### **Child Count 34 C.F.R. §300.640; ARSD 24:05:17**

- a. Child Count data is the collection of enrollment information for students with disabilities ages 3-21 who are receiving Special Education services. Accurate reporting ensures who is responsible for providing services to identified students. NESC and its employees work with member school districts to ensure the accuracy of district child count data. Students served within NESC programs have previously been identified as students with disabilities and are on the child count of the resident member district. The Director of NESC ensures that the enrollment information is accurate for all students served in NESC programs so that resident member districts have accurate information for their child count.

## Section III. Timelines

### **Evaluation 34 C.F.R. §300.122; ARSD 24:05:25**

### **Yearly Review and revision of individual educational programs 34 C.F.R. §300.324; ARSD 24:05:27:08**

- a. Special Education has explicit timelines that need to be followed. Those timelines are associated with;
  - i. Annual Meetings
  - ii. Eligibility
  - iii. Evaluation – Initial and reevaluation

NESC and its employees coordinate with each member district to which they are assigned to ensure that timelines are followed. When an NESC employee is assigned to a member district, they follow the district's procedures for meeting timelines and communicate with the district any information necessary to meet those timelines. NESC program special education teachers monitor the timelines related to evaluation and annual meetings. They coordinate these meetings and activities with the other staff assigned to the program to ensure that timelines are met. They also communicate with the resident district of the student about upcoming timelines and the plan to ensure compliance with those timelines.

## Section IV. Individualized Education Program (IEP)

### **Development of the IEP 34 C.F.R. 300.112; ARSD 24:05:27**

- a. NESC employees who case manage students within member school districts (i.e., Speech Language Pathologist, ECSE teachers) will develop and write the IEP for those students. NESC program special education teachers are responsible for writing the IEP for all students who are enrolled by member districts in the program.
- b. The agency works directly with the student and has knowledge of the strengths and needs of the student. The district and the agency must work together to develop a comprehensive IEP based on the needs of the student. NESC employees maintain consistent communication with the member district on student progress. Upon enrollment in an NESC program, district staff participate in interviews as well as an IEP meeting to provide input into the student's strengths, needs, programming, and educational decision-making. When an IEP for a student in an NESC program is written, the special education teacher contacts the district administration and/or the previous special education staff to gain input and provide information on the student's current present levels.
- c. Every student on an IEP will have annual goals. These goals are written to be measurable and progress documented. Each student's progress must be reported to the parent as specified in the IEP. NESC employees who are case managers for students in member districts are responsible for providing progress on the students' IEP goals to parents using the method and frequency outlined in the IEP. The employee will either report the progress directly to the parent or work with the district to provide the progress report to the parent. For students in NESC programs, the special education teacher of the program is responsible for providing progress reports to the parent and to the resident district using the method and frequency outlined in the IEP.
- d. The IEP identifies the individual services that each student with a disability will receive. These services are identified in the IEP documents as the amount of service and frequency related, but not limited to, special education services, related services, transition services, etc. The district works collaboratively with NESC employees to provide the services in the IEP. NESC employees include Occupational Therapists and Assistants, Physical Therapists and Assistants, Speech/Language Therapists and Assistants, Early Childhood Special Education Teachers, Paraprofessionals, and School Psychologists. Member districts receive these services from NESC. For member district students who attend an NESC program, NESC provides all of the services and related services on the IEP unless specified otherwise. If a student attending an NESC program requires unique services, NESC and the district will work collaboratively to ensure that the student has access to those services. At times, the district may provide the service rather than NESC.

## Section V. Evaluation

### **Completion of the evaluation 34 C.F.R. §300.122; ARSD 24:05:25**

- a. Special education evaluations (initial or reevaluations) must be completed in a specific timeframe. For students of transition age, a transition evaluation must also take place. The district and the agency will determine who will be responsible for initiating the evaluation process. Communication between the agency and the district is significantly

important to complete the evaluation. NESC employees who are case managers for students in member districts are responsible for coordinating the evaluation for the student and ensuring timeliness. NESC employees collaborate with the district to ensure that evaluation needs are met for the member district. For students in NESC programs, the special education teacher of the program is responsible for ensuring that the evaluation is comprehensive and completed within the specified time frame. All NESC employees will complete standardized evaluations and skill-based evaluations within the areas for which they hold expertise. Results from these evaluations are provided in written form to the member districts and the parents.

## Section VI. IEP Team

**IEP team meeting date 34 C.F.R. §300.23; ARSD 24:05:27:02**

**Parent Participation 34 C.F.R. §; ARSD 24:05:30:02.01**

**IEP team 34 C.F.R. §300.321; ARSD 24:05:27:01.01**

Special Education has specific laws that govern the meetings. The IEP team is the key element in making informed decisions in the best interest of the student. Communication with the district about who will be conducting the meetings (annual, eligibility, amendment, etc.) is essential.

- a. Meeting Notice –Before a meeting, the notice will be sent out. The content of the meeting notice includes date, time, location, purpose, agenda, attendees, and contact information.
- b. Conducting - NESC employees who are case managers conduct the meeting in conjunction with the member district. The Special Education teacher for an NESC program conducts the meeting for enrolled students.
- c. Location - NESC employees who are case managers within districts hold meetings within the member district. When a meeting is held for a student in an NESC program, the meeting is held at the program location. In both cases, virtual attendance options are available.
- d. Attendance - Special Education law requires, at a minimum, that the parents of the student, regular education teacher (if student is participating in the regular education environment), at least one special education provider, representative of the school district that can make decisions about the availability of resources of the district, the student (if appropriate), and transition service participants (if applicable). If a meeting is held at a location outside of the member/resident district, NESC will ensure that required team members are provided sufficient notice of the meeting and that a virtual attendance option is provided.

## Section VII. Parental Prior Written Notice

**Content of Notice 34 C.F.R. §300.503; ARSD 24:05:30:04, 24:05:30:05**

- e. Transfer of records. NESC agrees to cooperate with record requests to establish a continuity of records for migratory students with disabilities.
- f. Destruction of information. Prior to destroying records, NESC will inform parents when it no longer needs them. Following that event, when requested by the parents, NESC will destroy the personally identifiable information (but may maintain contact information for the student in addition to a record of grades, attendance, classes taken, and grades). NESC will notify parents through a written statement within the student's final Prior Written Notice document.

- a. Meeting Notice -Parents of students with disabilities are to be included in all IEP team meetings. These meetings are at a mutually agreed-upon time and place. Parents are to be informed early enough to ensure that they will have the opportunity to attend. As for the Parental Prior Written Notice, it is completed and given to the parent after a meeting has been held. This notice is provided as a recap of what was discussed in the meeting and should include what the district proposes or refuses to initiate or change in the identification, evaluation, or educational placement of the child, and should be given to the parents five days before this change. NESC employees who are case managers within districts and the Special Education teacher for an NESC program are responsible for the completion and delivery of these notices.
- b. The timelines of the notices are important and need to be provided to the parents within those timelines. NESC provides training on timelines associated with notices to all NESC employees. NESC employees use electronic calendars to ensure that notices are provided within timelines.

#### Section VIII. Discipline Procedures

**Authority of School Personnel 34 C.F.R. §300.530; ARSD 24:05:26:02.03, 24:05:26:09.03**

**Change of Placement for disciplinary removals 34 C.F.R. §300.536: ARSD 24:05:26:02.01**

- a. Students who are on an IEP may exhibit minor to extreme behavior issues. Existing behavior plans in the IEP may need to be addressed. Specific guidelines exist and need to be followed for the suspension and expulsion of students on an IEP. When a student is enrolled in an NESC program, NESC program staff will follow the existing behavior plan. If needed, NESC program staff will conduct an FBA and/or write a new behavior plan if the current plan is not successful within that setting. Data will be collected on the student's progress with behavior. This progress is reported to the member resident district of the student.

If discipline actions are needed, NESC, in conjunction with the resident district, will conduct a manifestation determination review within 10 days of a decision to change the placement of a student with a disability due to a violation of the code of student conduct. During this review, relevant members of the student's IEP team (as determined by the district and the parents) will review all relevant information to determine the following.

1. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?
2. Was the conduct in question the direct result of the district's failure to implement the IEP?

When either condition #1 or #2 above has been met, NESC acknowledges that the conduct must be determined to be a manifestation of the student's disability. If condition #2 was met, NESC acknowledges that it must take immediate steps to remedy the deficiency in IEP implementation.

#### Section IX. State and District-Wide Assessment Procedures

**Participation in Assessments 34 C.F.R. §300.160; ARSD 24:05:14:14, ARSD 24:05:14:14.01**

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- a. Students are required to participate in state assessments at certain grade levels. Some accommodations stated on their IEP may be needed for participation in the assessment. Students who participate in NESC programs are provided with accommodations and participate in state assessments. The NESC director ensures that the students who take state assessments are reported to the Department of Education and are represented in the state assessment program. The special education teacher of the program conducts the state assessment with the student and provides the accommodations listed on their IEP. Results of the state assessment are shared with the parents by the Director or the Special Education teacher.

#### Section X. Procedural Safeguards

NESC will provide a copy of the *South Dakota Parental Rights and Procedural Safeguards* document to the parents of an eligible child with a disability at least once each year, in addition to the following.

1. Upon initial referral or parent request for an evaluation;
2. Upon request by the parent;
3. Per discipline procedures outlined in the procedural safeguards document;
4. Upon receipt of the first state complaint or first due process complaint in a given school year.

NESC uses the *South Dakota Parental Rights and Procedural Safeguards* document, which conforms with the content standards established in ARSD 24:05:30:06.02.

#### **Availability of mediation 34 C.F.R. §300.506; ARSD 24:05:30:09**

For students in NESC programs, NESC and the resident member district will offer voluntary state mediation to the parent after receiving notice about any matter of dispute, including matters arising before a due process complaint is filed. NESC will make such mediation conferences timely and nonadversarial and will schedule them in a location convenient to all parties involved in the dispute.

#### **Filing of due process complaints 34 C.F.R. §300.507; 300.508, 300.509; ARSD 24:05:30:07.01**

NESC acknowledges that either it, the resident member district, or the parent may file a due process complaint on any matters related to the identification, evaluation, placement, or FAPE of a student with a disability.

#### **Resolution process 34 C.F.R. §300.510; ARSD 24:05:30:08.09-.12**

Within 15 days of receiving notice of the parent's due process complaint and before the initiation of a due process hearing, NESC and the resident member district will convene a meeting with the parent and relevant members of the IEP team who have specific knowledge of the facts identified in the complaint. NESC, the resident school district, and the parent will determine which IEP team members are relevant, but the team will include a representative of the district who has decision-making authority.

NESC and the resident member school district will not bring an attorney unless the parent is accompanied by an attorney.

During this meeting, NESC and the resident member district will attempt to resolve the dispute that is the basis for the due process complaint. The district acknowledges that this resolution meeting need not be held if the parent and the district agree to waive it or if the parent and the district agree to use mediation.

#### **Impartial due process hearing 34 C.F.R. §300.511; ARSD 24:05:30:09.04**

NESC acknowledges that either party, NESC or the parent, has the right to an impartial due process hearing following a due process complaint.

#### **Hearing rights 34 C.F.R. §300.514; ARSD 24:05:30:12**

NESC acknowledges that, during the impartial due process hearing, both the district and the parent have the right to be accompanied and advised by legal counsel to present evidence, to cross-examine and compel the attendance of witnesses, to prohibit the introduction of evidence that has not been disclosed at least five business days before the hearing, to obtain a written record of the hearing, and to obtain a written record of findings of fact and decisions.

#### **Hearing decisions 34 C.F.R. §300.513, 300.514, 300.515, 300.516, 300.517; ARSD 24:05:30:11**

NESC acknowledges that NESC, the resident school district, and the parent have the right to file a civil action, within 90 days, to appeal the decision of the due process hearing.

#### **Status of child during due process proceedings 34 C.F.R. §300.518; ARSD 24:05:30:14**

NESC acknowledges that the student in a due process complaint must remain in the present educational placement during that complaint unless the parents and district agree otherwise, with these exceptions.

1. If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.
2. If the complaint involves an application for initial services from a child transitioning from Part C of the IDEA to Part B who is no longer eligible for Part C because the child has turned three, the district is not obligated to provide the Part C services that the child had been receiving. 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, then the district must provide those special education and related services not in dispute.
3. If the decision of a hearing officer in a due process hearing agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the state and the parents for purposes of pendency.

#### **Section XI. File Maintenance**

#### **Confidentiality of Information 34 C.F.R. §300.123; ARSD 24:05:29, ARSD 24:05:21:05**

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NESC will ensure compliance with all regulations regarding the confidentiality of records and information, as noted in 34 C.F.R. §§300.610 through 300.626.

**Records regarding migratory children with disabilities 34 C.F.R. §300.213; ARSD 24:05:21:05**

NESC agrees to cooperate with records requests in order to establish a continuity of records for migratory students with disabilities.

**Destruction of information 34 C.F.R. §300.624; ARSD 24:05:29:15**

NESC works to ensure that all special education records for students are stored within the member resident school district. At the end of a school year, student file information will be returned to the resident member district. However, if special education records are maintained at NESC, NESC will maintain the special education records for at least 5.5 years after they are no longer needed. Before destroying records, NESC will inform parents when it no longer needs them. Following that event, when requested by the parents, NESC will destroy the personally identifiable information (but may maintain contact information for the student in addition to a record of grades, attendance, classes taken, and grades).

NESC will include the following in each student's final PPWN. "After 5.5 years from this date, the student's special education records will be destroyed. Since these educational records may be needed for other purposes (such as accommodations for employment or higher education, public benefits and insurance, or private insurance), please make arrangements to request any necessary copies before 5.5 years have lapsed."

- a. District policies and procedures on the confidentiality of information. NESC has designated the Director to maintain the records and train others in how to collect, store, disclose, and destroy the records in a manner that protects confidentiality. The Director will also maintain a list of the names and positions of others who may have access to personally identifiable information.
- b. For students who are enrolled in an NESC program, the following items will be in the file at the agency
  - i. IEP (most current)
  - ii. Evaluation report (Most current)
  - iii. Eligibility Document (most current)
  - iv. Notices (most current): Meeting Notice, Parental Prior Written Notice, Consent for Evaluation, etc...
- c. The special education teacher at the student's NESC program will be responsible for maintaining the student's file. The Director and special education teacher will be responsible for acquiring the most current documents from the member's resident district when enrolled. The special education teacher will ensure that the district has access to the current student file.
- d. The student files are confidential and need to be located in a locked cabinet. For students who attend an NESC program, the files are kept in a locked cabinet within the program space. If files are kept by NESC employees who provide services to member districts, the files are maintained in a locked cabinet inside a locked room at the NESC main office.