

The Prior Written Notice

May 2024

Student Education Records

Who's allowed access to what?

What “counts” as an education record, who is allowed to see them, and when/if we should provide them to parents or other interested parties. Here are some quick explanations that may help.

Keep in mind that ALL records requests should go to the SSD Records Department.
We should not take it upon ourselves to provide requested records to non-4J individuals.

Education Records include *anything that pertains to the student and is routinely maintained by the district*, per FERPA.

- This includes paper documents, electronic documents, photographs, videos, and recordings.
- Parents have the right to *access* any of these records, though we are not obligated to provide them with their own copy. Often it's useful to sit with parents as they review the record, in case they have questions.

Raw data is *not* an education record and parents do not have access to them. Parents and lawyers are increasingly requesting documents like daily point cards for a student on Check-In/Check-Out, or a school psychologist's assessment protocols, or even a teacher's reading probe recording forms.

- The information from all of those documents is considered “raw data” that is subsequently summarized/described in progress reports, IEPs, or evaluation reports that are shared with the parent. Therefore, these “raw data” items can be shredded and not maintained once the information is transferred to its summary/report form.
- **Note:** This requires us to write strong Progress Reports that contain data and descriptions, not just a rating or a “making adequate progress” comment. Otherwise, our “raw data” is the only record of a student's performance and will, therefore, be considered education records.

An email is *not* an education record, unless it has been printed out and placed in a student's file or attached to a student's electronic record.

- *However*, they are “discoverable” if a parent or lawyer makes a Public Records Request -- even if we only use the student's initials or partial names.
 - Please use full student names when sending emails within 4J. Using just initials makes it harder for other staff and the records department to find information when needed.
- **Note:** Parents and lawyers are increasingly making public records requests, so we should never put anything into an email that we would not want read aloud in court!

Non-parents *cannot* access education records unless the legal parent has permitted it in writing or the district receives a subpoena.

- This applies to attorneys, parent advocates, CASAs, law enforcement officers, probation officers, county developmental disability services, county mental health services, and private service providers.
- Exceptions: A state welfare agency caseworker (DHS) can *always* request records without parent consent or subpoena, and law enforcement does not need a subpoena *if* there is a health or safety emergency for the child.

Important dates on the SSD Calendar

May 3rd: ESY Data Due to SSD!

- Make sure all IEPs have a definitive Yes/No for ESY on the Service Summary Page
- If an IEP still says “Team will determine...,” hold an IEP amendment to make that change ASAP.)

May 8th: Referral Review Team

May 13th–June 3rd: easyCBM & SAEBRS assessment window open

May 16th: Student Services Rep Council (4:00-6:00, Tower Room)

May 22nd: Referral Review Team

May 27th: Memorial Day (holiday)



Frequently Asked Questions

Some of your colleagues have been asking...

➤ When should we conduct a Reevaluation *before* the 3-year-reeval is due?

In general, there is no need to conduct a reevaluation other than on the regular 3-year schedule -- because eligibility does *not* determine or define services. If we have evidence that a student needs their IEP adjusted, we adjust it! Consider the following examples:

- What if the parent provides new information about a student's diagnosis?
 - Hold an IEP meeting to include that information in the Present Level and adjust goals/services as necessary. If necessary, additional eligibility categories can be considered for the 3-year reevaluation.
- What if the school team has new data that suggests an additional or different eligibility category for the student?
 - Use that data to adjust services on the IEP in order to meet the student's needs, then consider this eligibility category at the 3-year reevaluation time.

Exception: "Artic only." If a student's only SpEd service is articulation therapy with an SLP, an "early" reevaluation *is* recommended before the team adds services to the student's IEP. Other than early reading skills (like phoneme segmentation), it is difficult to justify adding academic or behavioral IEP services for a student whose only disability is speech articulation.

➤ Were there changes made to Abbreviate School Day through Senate Bill 1558?

This Senate Bill essentially formalized some things that 4J had already decided to do for high schoolers with a disability (has an IEP or a 504 Plan) without a full schedule:

- We do not need to do the Abbreviated School Day Program (ASDP) process for a high school student who chooses free periods in their schedule, *as long as they are on-track to graduate*.
 - Note, the legal statute specifies 11th and 12th graders, but our legal counsel agrees that we can also apply it to 9th and 10th graders.
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Also, we do not need to do the ASDP process for a when a high school student takes *one* asynchronous class in a semester, as long as the class:

- Satisfies a credit requirement for a high school diploma or modified diploma; or
- Is a credit recovery class; or,
- Is a class not otherwise available (for example, a class not offered in 4J);
- And, the class is offered during the school day, with an adult available if student needs assistance

Remember: Any time an IEP team or 504 team determines that a student needs a shortened day, all ASDP processes must be followed.

➤ **How does enrollment work for students who are unhoused or in foster care?**

When a student is protected by the McKinney-Vento law that provides protections to unhoused students, the student is entitled to attend their *school of origin*. This means that a student who lacks a fixed, regular, and adequate nighttime residence are entitled to attend the school they attended when they were last in permanent housing, even if they are not staying within district limits while unhoused.

For example: If a student attended Edison Elementary, then lost their housing and is staying on their aunt's couch near Awbrey Park Elementary, the student should continue to attend Edison (and the district will provide transportation). And, if they were finishing 5th grade while on their aunt's couch, the student should go to Roosevelt Middle School, not Madison Middle School, because Roosevelt is considered their *school of origin* from their last permanent residence.

There are similar rules in effect for students in foster care. Even if the foster family is outside of 4J, the student is entitled to remain at their school (and its successive middle or high school) from their last permanent residence. There is a caveat for foster youth, though: foster parents can *choose* to send the student to the foster family's neighborhood school as long as the involved agencies and legal advisors agree to it.



SSD Spotlight

Occupational Therapist wins Award



At the Oregon Therapy in Educational Settings (TIES) conference in April, our very own Carol Welch received the Judy Rowe Exemplary Therapist Award. This award is named for an Oregon occupational therapist known for her expertise and dedication who worked in public schools for most of her career. The award is presented to honor Oregon therapists who are nominated by their peers in education-based practice.

Carol's colleagues on the Motor Team shared that Carol has a "genuine compassion for helping others succeed and thrive in their academic and personal journeys." She "enters the room with a smile and looks for the good in all the adults and children she interacts with." As a lifelong learner and natural team leader, Carol models "staying abreast of the latest evidence-based practices" to help the whole team deliver the highest quality of care.

Carol shows an "unwavering commitment to improving the lives of her students (through) compassionate care, thoughtful interventions, and tireless advocacy. In short, Carol has "made a profound difference in the lives of countless individuals." Join us in congratulating Carol on this award, and thanking her for her occupational therapy skills, her advocacy, and her leadership.



Reminders

Adding Consultation Services to an IEP

Please be courteous to your colleagues and refrain from adding consultation minutes to an IEP *without that consultant's input and attendance at the meeting*. We can all agree that we would not add Speech/Language services to a student's IEP before the student has been evaluated by a Speech Language Pathologist. Also, we would not obligate and SLP to provide direct service minutes on an IEP without their presence or input.

Similarly, we cannot simply add Assistive Technology Consultation without first completing the process for requesting an AT evaluation and having the AT Specialist at the IEP meeting to share results and determine, if appropriate, how much consultation they might provide. While not all consultants conduct evaluations prior to an IEP discussion, they should be included in an IEP meeting if the team would like to consider adding consultation. This applies to any provider of consultation:

- Adapted PE Specialists,
- Assistive Technology Specialists,
- Autism Consultants,
- Behavior Consultants,
- Occupational Therapists,
- Physical Therapists,
- Speech Language Pathologists,
- Other consultation providers.

Retaking a Test as an IEP Accommodation

Allowing a student to retake a test *based on the grade they earned on the test* is NOT a reasonable accommodation and should be avoided. For example, please do not write: "Albert will be allowed to retake a math test his test grade is below a C." An accommodation like this automatically assumes that a student performed poorly due to their disability rather than due to their knowledge of the test content.

Remember, an accommodation is meant to provide *access to the* general education curriculum, including tests, not to allow a student an opportunity to improve their performance or work to mastery.



If we are concerned that a student will not be able to understand the test content, or show what they know on a test, *due to their disability*, we could consider accommodations such as these:

- give extra time for the test,
- provide a quiet space for the test,
- present one page, or one half-page of the test, at a time,
- allow oral instead of written responses,
- provide an alternative method (write a paper, prepare a presentation) instead of doing a test.

There are rare occasions when a retest would be warranted, but should only happen if something occurs that prevents the student from *accessing* the test, for example:

- the substitute didn't give them the extended time they were entitled to,
- there was a fire-drill right before or during the test and the student's panic attacks kicked in,
- the student's blood-sugar spiked and they became disoriented during a test

If the opportunity to re-test is on an IEP, it should be very narrowly and specifically described as to which disability-related situations would warrant such an action. For instance:

- If Marvin's blood sugar spikes or drops precipitously right before, or during, a test, Marvin will be permitted to retake the test at another time agreed upon by the student and teacher.

Accommodations vs. Modifications on an IEP

Accommodations: These are changes that help a student access their education despite their disability. These are usually changes to the physical environment (material, equipment, room configuration), or modes of receiving/sharing knowledge (large print, voice-to-text, allowing a student to give a speech instead of writing a paper).

Modifications: These are changes to what we require a student to learn in order to complete a course or an assignment. This lowers the expectations for instructional level, content, or performance, which changes the grade-level standards the student must meet. Examples include reducing the number of required readings, changing an essay test to a multiple-choice test, or exempting a student from taking the lab portion of a science course.

Modified curriculum/grading: should be used very sparingly!



If any curriculum is modified (i.e. is changed in breadth, depth, or complexity), then it needs to be listed under the modifications section of the Service Summary.

- Please remember that any modified grading should be described in a Modified Grading Agreement with each teacher who will be modifying their grades.
- Also, please remember that modifying a student's academic requirements in lower grades can prevent the student from being successful in grade-level material in later years. For example, modifying courses or grading in middle school often prevents the student from being prepared for their high school-level courses. As a result, the student may not be able to achieve a standard Oregon diploma.

Plans/Protocols: All health, feeding, toileting, behavior, or communication plans are considered an *accommodation* needed for the student to safely access their education. Please list them as such on the Service Summary page.

- Also, If a plan or protocol of any kind is listed under Accommodations, then it needs to be attached in the Attachments in Synergy SE *and* in the Documents tab in Synergy SIS.

