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This Training is being Recorded.

Please feel free to ask questions as they come up, but we will have several Chat Box Check-Ins throughout the training.



Housekeeping

- ▶ Please take a moment and make sure your name is correctly displayed.
- ▶ Let other participants know who is here by dropping your name, position and district in the chat box.



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Disciplinary Removals and Manifestation Determination Reviews

10/25/2023

Agenda

- Introductions
- Brief summary of federal regulations
- Disciplinary Removals
- Informal Removals
- Manifestation Determination





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Procedural Manual



Special Education Required Forms Procedural Manual



Updated 8/1/2020

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Maine Unified Special Education Regulations (MUSER)



05-071 Chapter 101

**Maine Unified Special Education Regulation
Birth to Age Twenty**

Effective Date:

August 25, 2017

<https://www.maine.gov/doe/sites/maine.gov.doe/files/inline-files/State%20Regulation%20Chapter%20101MUSER.pdf>





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Why are we
here?



Individuals with Disabilities Education Act (IDEA)

- ▶ Federal funds for special education programming are provided to SAUs through IDEA grants (often referred to as local entitlement).
- ▶ SAUs must be compliant with IDEA to receive these funds
- ▶ On February 1, each state must file a State Performance Plan / Annual Performance Report (SPP/APR) with the Office of Special Education Programs (OSEP). OSEP compiles data from these reports and files their report to Congress.
- ▶ The APR reports the State's level of compliance with 17 indicators.



Individuals with Disabilities Education Act (IDEA)

Indicator 4(a & b)

- ▶ Indicator 4 concerns suspension and expulsion more than 10 days for special education students as compared to the state's rate.
 - ▶ 4(a) Percent of LEAs with significant discrepancy
 - ▶ 4(b) Percent of LEAs with significant discrepancy by race/ethnicity



Individuals with Disabilities Education Act (IDEA) Indicator 4(a & b)

State's definition of "significant discrepancy" and methodology

The following decision rules are used to determine if there is a significant discrepancy in the rates of suspensions/expulsions greater than 10 days for children with disabilities: The district must have a minimum of 10 students with IEPs enrolled. For districts meeting the n size threshold of 10, the number of students suspended or expelled over 10 days must be greater than 1 and the rate of suspension/expulsion over 10 days must be more than 3 standard deviations above the State's rate of suspensions/expulsions greater than 10 days for students with disabilities.

<https://www.maine.gov/doe/learning/specialed/ideapublic>



Individuals with Disabilities Education Act (IDEA) Indicator 4(a & b)

Indicator 4a	Students with IEPs	Removed > 10 days	Percent of students with IEPs who were removed > 10 days
District	15	2	13.33%
State	32450	247	0.76%

Indicator 4b	White students with IEPs	Removed > 10 days	Percent of white students with IEPs who were removed > 10 days
District	15	2	13.33%
State	28392	225	0.79%

Individuals with Disabilities Education Act (IDEA)

Indicator 4(a & b)

- ▶ When an SAU is flagged, the Monitoring Team must investigate.
- ▶ We look at the documentation of the incidents and meetings pertaining to the disciplinary removals.
- ▶ If policies, procedures, and/or regulations are not followed or not documented, a finding of noncompliance is issued along with a Corrective Action Plan (CAP).





Chat Box Check In





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Disciplinary Removals



Maine Unified Special Education Regulations (MUSER)

- Each state has special education regulations aligned with federal law (IDEA).
- State regulations may go beyond the scope of IDEA.



Code of Conduct Violation

MUSER XVII.1.B(1)

- ▶ Child who violates code of conduct may be removed from current placement for not more than 10 consecutive school days to appropriate interim alternative educational setting, another setting, or suspension.
- ▶ May be additional removals of not more than 10 days in the same school year for separate incidents of misconduct.



Services during Removal

- After a child has been removed from current placement for 10 school days (MUSER does **not** specify consecutive days here) in the same school year, services must be provided during any subsequent days of removal. (MUSER XVII.1.B(2))
- Education services to enable the child to continue to participate in the general education curriculum and progress in IEP goals. (MUSER XVII.1.D(4))
 - School personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed. (MUSER XVII.1.D(4))
- If the SAU provides services to all children who have been removed for 10 school days or less, those services must also be provided to a child with a disability removed for 10 school days or less. (MUSER XVII.1.D(3))



Change in Placement

MUSER XVII.7

- The removal is for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitute a pattern—
 - Because the series of removals total more than 10 school days in a school year;
 - Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - 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.



Change in Placement

MUSER XVII.1.H

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 SAU must notify the parents of that decision, and provide the parents the procedural safeguards.



Special Circumstances

MUSER XVII.1.G

- Student may be removed to an interim alternative educational setting for not more than 45 school days without regard to manifestation determination if the child:
 - Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an SAU;
 - 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 an SEA or an SAU; or
 - Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an SAU.



Special Circumstances Definitions

- Under the current definition in 18 U.S.C. 1365(h)(3), *serious bodily injury* means bodily injury that involves — (1) a substantial risk of death; (2) extreme physical pain; (3) protracted and obvious disfigurement; or (4) protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This definition cannot be altered by States or local school boards. See 71 Fed Reg. 46722.
- Under the current definition in 18 U.S.C. 930(g)(2), *dangerous weapon* means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocketknife with a blade of less than two and one half inches in length.



Informal Removals



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Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions

OSEP 22-02

In the discipline context, administratively shortened school days occur when a child's school day is reduced solely by school personnel, rather than the child's IEP Team or placement team, in response to the child's behavior.



Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions

OSEP 22-02

The calculation of the 10 school days of suspension addressed in 34 C.F.R. § 300.530 could include exclusions that take place outside of IDEA's discipline provisions which occur because of a child's behavior. Actions that result in denials of access to, and significant changes in, a child's educational program could all be considered as part of the 10 days of suspension and also could constitute an improper change in placement. These actions could include when a school administrator unilaterally informs a parent that their child with a disability may only remain in school for shortened school days because of behavioral issues or when a child with a disability is not allowed by the teacher to attend an elective course because of behavioral concerns.



Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions

OSEP 22-02

These types of actions are generally considered disciplinary removals unless all three of the following factors are met:

- (1) the child is afforded the opportunity to continue to appropriately participate in the general curriculum;
- (2) the child continues to receive the services specified on the child's IEP; and
- (3) the child continues to participate with nondisabled children to the extent they would have in their current placement

NOTE: These factors are the same factors the Department applies to in-school suspensions, for purposes of 34 C.F.R. § 300.530.





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Manifestation Determination Review



Manifestation Determination Review (MDR)

MUSER XVII.1.E

- Within 10 days of removal that results in change of placement, IEP team must review all relevant information in student's file and determine if conduct was caused by, or had a direct and substantial relationship to, the child's disability **or** was the direct result of the SAU's failure to implement the IEP.
- If direct result of failure to implement the IEP, the SAU must take immediate steps to remedy those deficiencies.



Failure to Implement the IEP

MUSER IX.3.B(4)

34 CFR 300.323(d)

- ▶ **Accessibility of child's IEP to teachers and others.** Each SAU must ensure that
 - ▶ (a) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
 - ▶ (b) Each teacher and provider described in paragraph (a) of this section is informed of
 - ▶ (i) His or her specific responsibilities related to implementing the child's IEP; and
 - ▶ (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP



If NOT determined to be a manifestation MUSER XVII.1.D(1)

- ▶ Education services to enable the child to continue to participate in the general education curriculum and progress in IEP goals.
- ▶ Child must receive, as appropriate, a functional behavior assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.



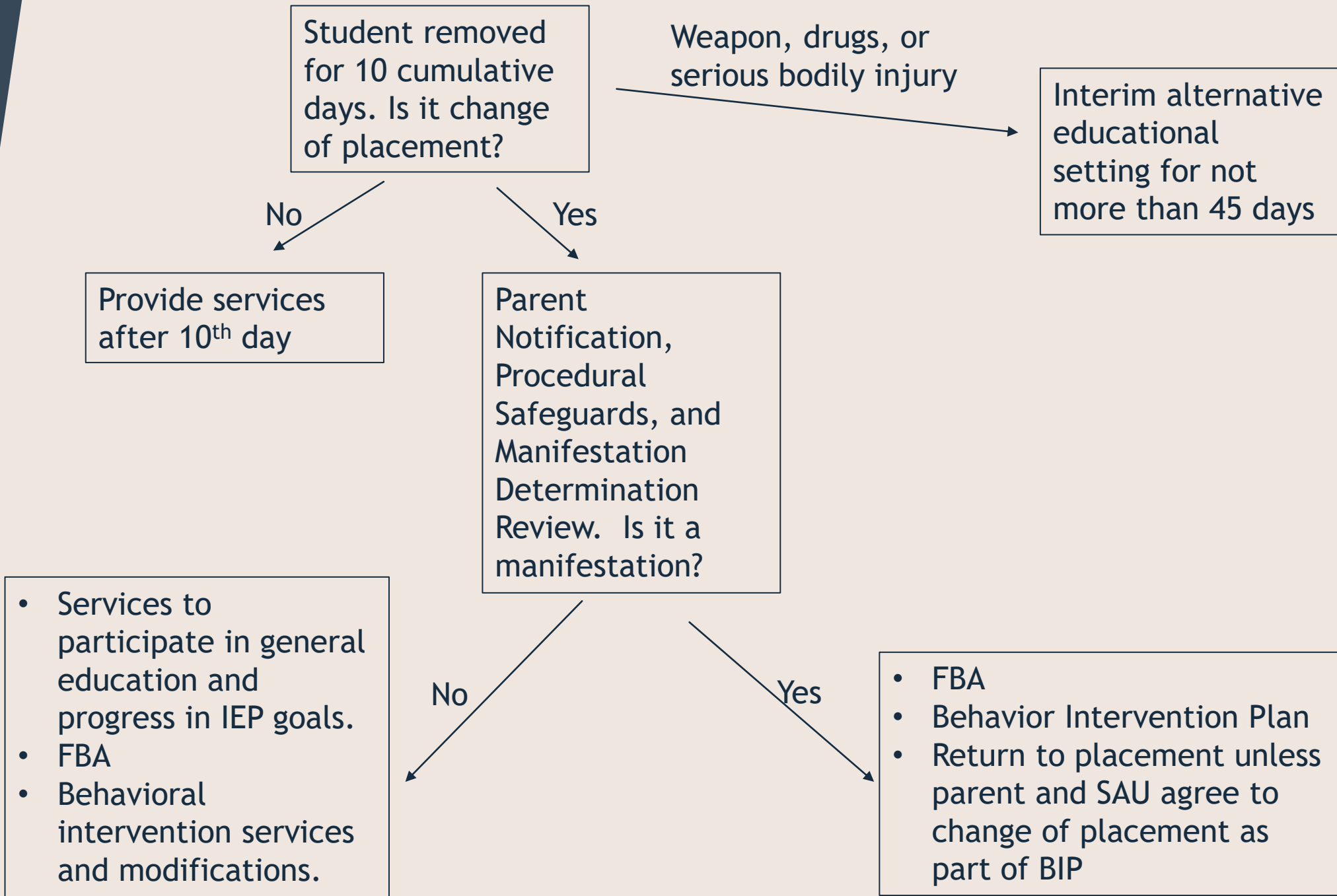
If determined to be a manifestation MUSER XVII.1.F

- ▶ SAU must conduct a functional behavioral assessment and implement a behavioral intervention plan, **or**
 - ▶ If an FBA was already conducted prior to change of placement (MUSER XVII.1.F(1)(a)) and behavioral intervention plan has been developed, plan must be reviewed and modified, as necessary, to address the behavior.
- ▶ Child must be returned to placement from which they were removed, unless parent and SAU agree to change of placement as part of modification of behavioral intervention plan.



If it's not in the
Written Notice, it
didn't happen.





Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions

OSEP 22-02

A parent of a child with a disability who disagrees with an LEA's decision regarding the child's placement under 34 C.F.R. §§ 300.530 and 300.531 or a determination of whether their child's conduct was or was not a manifestation of the child's disability under 34 C.F.R. § 300.530(e) may appeal the decision by requesting a hearing, which is done by filing a due process complaint. 34 C.F.R. § 300.532(a). the parent requests a hearing, the SEA or LEA must then arrange for an expedited due process hearing, which must occur within 20 school days of the date that the due process complaint requesting the hearing is filed, and the hearing officer must make a determination within 10 school days after the hearing. 34 C.F.R. § 300.532(c)(2).



Not a special education student? MUSER XVII.5

- A child who has not been determined to be eligible for special education may assert any of the protections provided if the public agency had knowledge that the child was a child with a disability before the behavior occurred.
 - Basis of knowledge
 - The parent expressed concern in writing that the child is in need of special education and related services
 - The parent requested an evaluation
 - The teacher or other personnel of the SAU expressed specific concerns about a pattern of behavior



Not a special education student? MUSER XVII.5

Exception if

- ▶ the parent has not allowed evaluation or
- ▶ refused services or
- ▶ if the child was evaluated and found not eligible for services as a child with a disability.



Not a special education student? MUSER XVII.5

If evaluation is requested during removal:

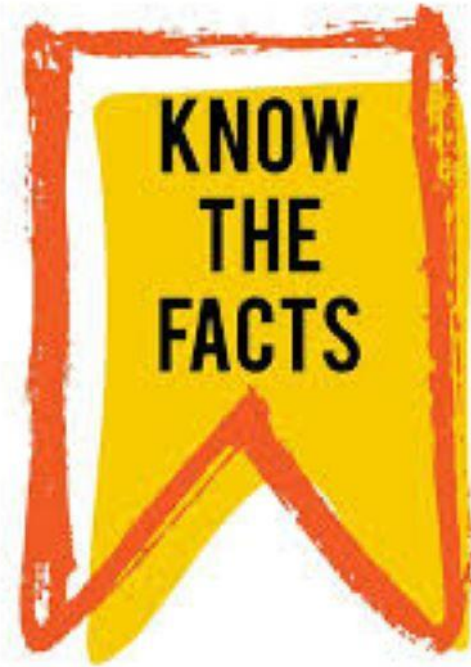
- Evaluation must be conducted in an expedited manner
- Child remains in the educational placement determined by school authorities
 - This can include suspension or expulsion without educational services
- If the child is determined to be a child with a disability, the agency must provide special education and related services in accordance with MUSER XVII.



**ME: THIS SHOW
IS BORING.
BOSS: AGAIN, THIS IS
A ZOOM MEETING.**

Questions?





Fun Facts

[Abbreviated Day](#)

[Disciplinary Removals](#)



[Communities Without Schools](#)

[Initial Evaluation Timeline](#)

[Least Restrictive Environment](#)

[Parentally Placed Students](#)

[Task Timeline](#)

[Written Notice](#)

<https://www.maine.gov/doe/learning/specialed/supervision/funfacts>

Resources

Professional Development Calendar -

<https://www.maine.gov/doe/calendar>

Link for Recordings and Power Points -

<https://www.maine.gov/doe/learning/specialed/pl>

Special Education Resources -

<https://www.maine.gov/doe/learning/specialed/supervision>

Special Education Laws and Regulations -

<https://www.maine.gov/doe/learning/specialed/law>

Special Education Forms and Reporting -

<https://www.maine.gov/doe/learning/specialed/forms>



2023-24 Professional Development Schedule

<u>DATE</u>	<u>TOPIC/DESCRIPTION</u>	<u>REGISTRATION LINK</u>
Wednesday 9/13/23	Resources	<u>Resources Registration Link</u>
Wednesday 9/27/23	Transition from CDS to Public School	<u>Transition from CDS to Public School Registration Link</u>
Friday 9/29/23	<u>Q&A Session</u>	<u>Q & A Registration Link</u>
Wednesday 10/11/23	Abbreviated Day	<u>Abbreviated Day Registration Link</u>
Tuesday 10/24/23	Fall All District IEP Training	<u>IEP Training Registration Link (10/24/23)</u>
Tuesday 10/24/23	Fall All District B-13 Training	<u>B-13 Training Registration Link (10/24/23)</u>
Wednesday 10/25/23	Discipline & Manifestation Determination	<u>Discipline & Manifestation Determination Registration Link</u>
Friday 10/27/23	<u>Q&A Session</u>	<u>Q & A Registration Link</u>
Wednesday 11/8/23	Least Restrictive Environment	<u>Least Restrictive Environment Registration Link</u>
Wednesday 12/13/23	Orientation and Mobility	<u>Orientation and Mobility Registration Link</u>
Wednesday 12/20/23	Compliant Transition Plans	<u>Compliant Transition Plans Registration Link</u>
Tuesday 1/9/24	Winter All District B-13 Training	<u>B-13 Training Registration Link (1/9/24)</u>
Tuesday 1/9/24	Winter All District IEP Training	<u>IEP Training Registration Link (1/9/24)</u>
Wednesday 1/10/24	Advanced Written Notice & Written Notice	<u>Advanced WN and WN Registration Link</u>



2023-24 Professional Development Schedule (cont.)

<u>DATE</u>	<u>TOPIC/DESCRIPTION</u>	<u>REGISTRATION LINK</u>
Wednesday 1/24/24	Present Level of Performance	<u>Present Level of Performance Registration Link</u>
Friday 1/26/24	<u>Q&A Session</u>	<u>Q & A Registration Link</u>
Wednesday 2/14/24	Writing Measurable Functional Goals and Avoiding Outcomes	<u>Writing Measurable Functional Goals Registration Link</u>
Wednesday 2/28/24	Transition from CDS to Public School	<u>Transition from CDS to Public School Registration Link</u>
Wednesday 3/13/24	Alignment and DIB1 (Disability Alignment)	<u>Alignment and DIB1 Registration Link</u>
Wednesday 3/27/24	Forms – (AE attached to WN)	<u>Forms (AE attached to WN) Registration Link</u>
Friday 3/29/24	<u>Q&A Session</u>	<u>Q & A Registration Link</u>
Wednesday 4/10/24	Special Education Law for General Education Teachers	<u>Special Education Law for General Education Teachers Registration Link</u>
Wednesday 4/24/24	IEP Essentials	<u>IEP Essentials Registration Link</u>
Friday 4/26/24	<u>Q&A Session</u>	<u>Q & A Registration Link</u>
Thursday 5/2/24	Spring All District IEP Training	<u>IEP Training Registration Link (5/2/24)</u>
Thursday 5/2/24	Spring All District B-13 Training	<u>B-13 Training Registration Link (5/2/24)</u>
Wednesday 5/8/24	Consultation/Related Service Goals	<u>Consultation/Related Service Goals Registration Link</u>
Wednesday 5/22/24	Data Collection	<u>Data Collection Registration Link</u>
Friday 5/24/24	<u>Q&A Session</u>	<u>Q & A Registration Link</u>



Please consider sharing the links to these PD opportunities with general education teachers:

Wednesday 10/25/23 - Discipline & Manifestation Determination

Wednesday 4/10/24 - Special Education Law for General Education Teachers

Please consider sharing the links to these PD opportunities with related service providers:

Wednesday 2/14/24 - Writing Measurable Functional Goals and Avoiding Outcomes

Wednesday 5/8/24 - Consultation/Related Service Goals



Professional Learning Feedback and Contact Hour Form

Use the link to complete the form on your computer

OR

Use the QR code to complete the form on your mobile device

Feedback and Contact Hours

Complete this form to provide us with feedback and receive your contact hour certificate. Your feedback matters to us!

* Required

1
Did the training content meet your expectations? *

Yes
 No

2
Do you feel that your knowledge or skills have improved with this PD? *

<https://forms.office.com/g/by472QQLDJ>



Feedback and Contact Hours

Complete this form to provide us with feedback and receive your contact hour certificate. Your feedback matters to us!

* Required

1
Did the training content meet your expectations? *

Yes
 No



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