

A dark blue silhouette of a person sitting and reading a book, positioned on the left side of the slide. The background is a dark blue gradient.

MAINE DEPARTMENT  
OF EDUCATION

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# Discipline and Manifestation Determination

**Presented by:** The OSSIE Supervision, Monitoring and Support Team



# Meet The Team



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- Federal regulations and reporting
- Disciplinary Removals
- Informal Removals and In-School Suspensions
- Manifestation Determination





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# Federal Regulations and Reporting



# 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 an Annual Performance Report (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 18 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





# First rule of special education:

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





# Disciplinary Removals

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# 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.



1. 1 day for swearing
2. 5 days for swearing and aggression

10 days for  
swearing and  
fighting

Oct 29, 2024 8am

- Notify parents
- Parental Safeguards
- Day 1 of removal

Nov 4, 2024

- Provide services

Nov 13, 2024

- Return to school

# 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 and In-School Suspension



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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.

# Recent Case Law on Informal Removals

**Case name:** *Muncie Community Schools.*, 124 LRP 31587 (SEA IN 7/3/24)

- Districts must accurately track disciplinary removals of students with disabilities to determine whether a change of placement has occurred, triggering a manifestation determination review. This district documented disciplinary removals through incident logs, attendance records, and computer logs, but it admittedly removed the student from class for portions of the school day without accurately documenting the informal removals. It should have convened the student's IEP team when days of removal reached the 10-day threshold to determine whether a change of placement occurred requiring an MDR.

# 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

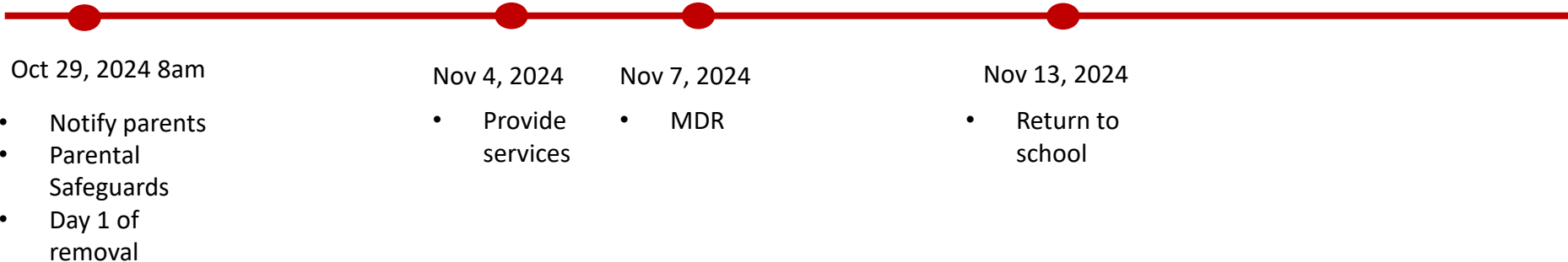


# Manifestation Determination Review (MDR) MUSER XVII.1.E

- Within 10 days of removal that results in change of placement, the IEP Team must hold a Manifestation Determination Review (MDR).

1. 1 day for swearing
2. 5 days for swearing and aggression

10 days for  
swearing and  
fighting



# 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

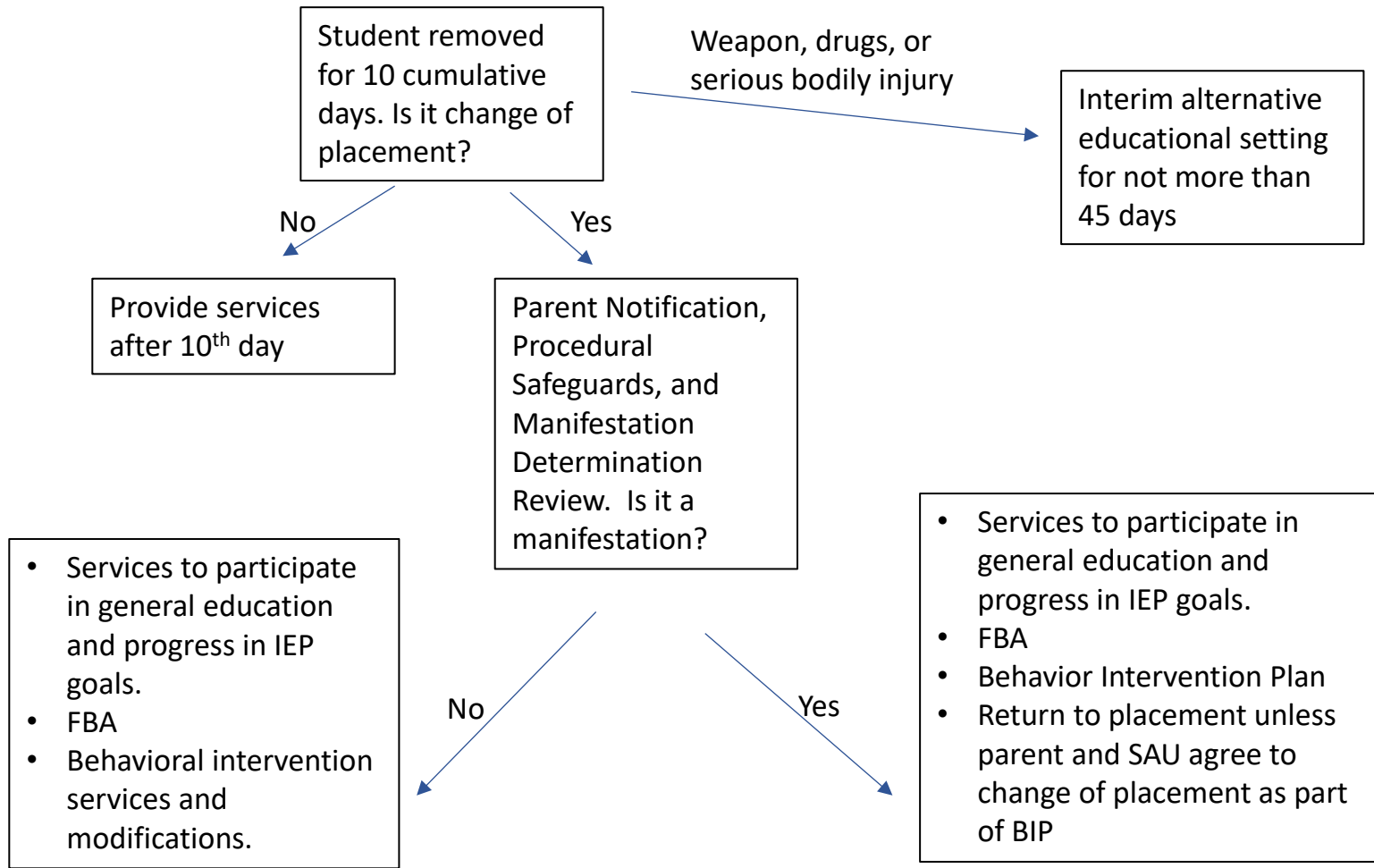
- SAU must conduct a functional behavioral assessment and implement a behavioral intervention plan, **or**
  - If an FBA was already conducted prior to change of placement (MUSER XVII.1.F(1)(a)) and behavioral intervention plan has been developed, plan must be reviewed and modified, as necessary, to 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?**



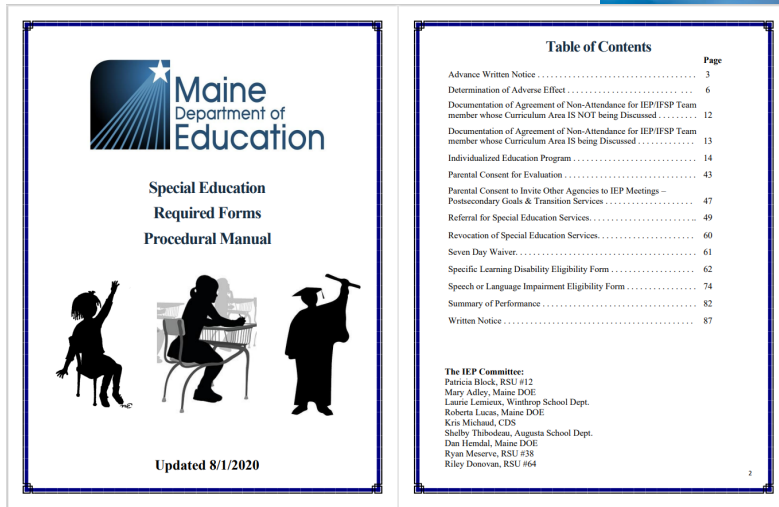
# Resources





# Resources

## Procedural Manual



# Resources

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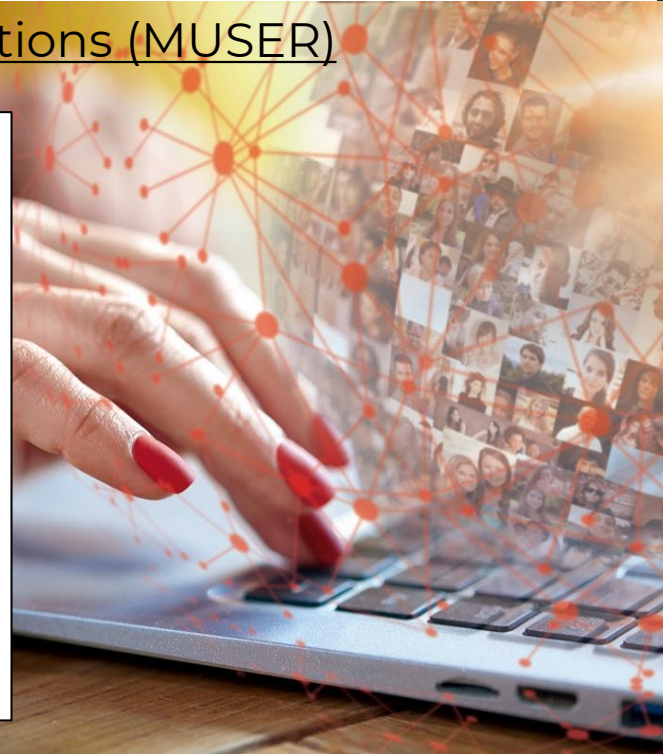
## Maine Unified Special Education Regulations (MUSER)



05-071 Chapter 101

### **Maine Unified Special Education Regulation Birth to Age Twenty-Two**

Effective Date: July 26, 2024



# Resources

(MUSER)

## 2024-25 Cohort IEP Quick Reference Document

\*Compliance  
\*Best Practice



Maine Unified Special Education Regulations (MUSER IX.3.G.)

### INDIVIDUALIZED EDUCATION PROGRAM (IEP)

SAU or CDS Site:

Date IEP Sent to Parent:

**FOT7- Compliance:**

☐ Date sent to parent is  $\leq$  21 school days from Annual Date of IEP Meeting

#### 1. CHILD INFORMATION

Child's Name:

Date of Birth:

Age:

Grade:

Annual Date of IEP Meeting:

Duration of the IEP:

Date of Next Annual IEP Meeting:

**FOT8- Compliance:**

☐ Date of next annual is within 364 days of annual meeting date

School/Program:

Parent/Guardian Name:

Child's Address:

City, State, ZIP:

Date of Re-Evaluation:

Date(s) of Amended IEP:

Case Manager:

State Agency Client? ☐ YES ☐ NO

#### 2. DISABILITY

☐ Autism

☐ Developmental Delay (3-5)

☐ Hearing Impairment

☐ Other Health Impairment

☐ Specific Learning Disability

☐ Deaf-Blindness

☐ Developmental Delay (Kindergarten)

☐ Intellectual Disability

☐ Orthopedic Impairment

☐ Traumatic Brain Injury

☐ Deafness

☐ Emotional Disturbance

☐ Visual Impairment (including Blindness)

☐ Speech/Language Impairment

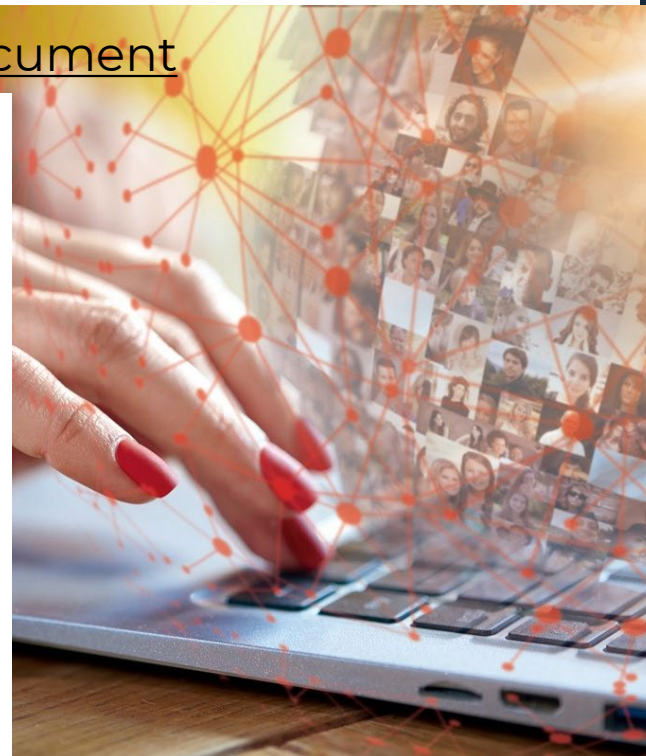
☐ Multiple Disability

(check all applicable concomitant disabilities)

**Compliance:**

☐ Only one disability checked, unless Multiple Disability is checked

☐ If Multiple Disability is checked, all disabilities making up the multiple are checked



# Resources



[Professional Development Calendar](#)

[Link for Recordings and Power Points](#)



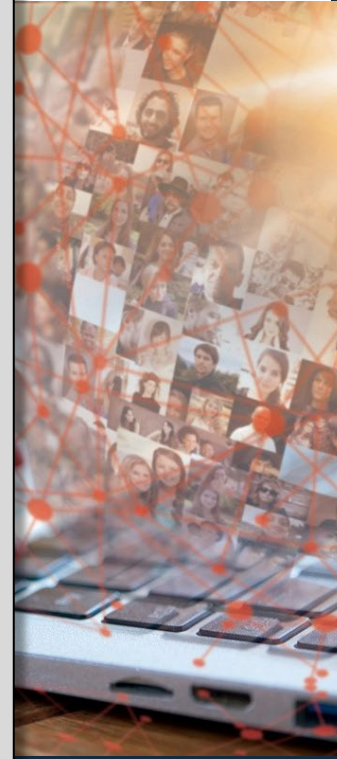
[Special Education Resources](#)



[Special Education Laws and Regulations](#)



[Resources for Families & Schools-Forms](#)



## 2024-25 Professional Development Schedule

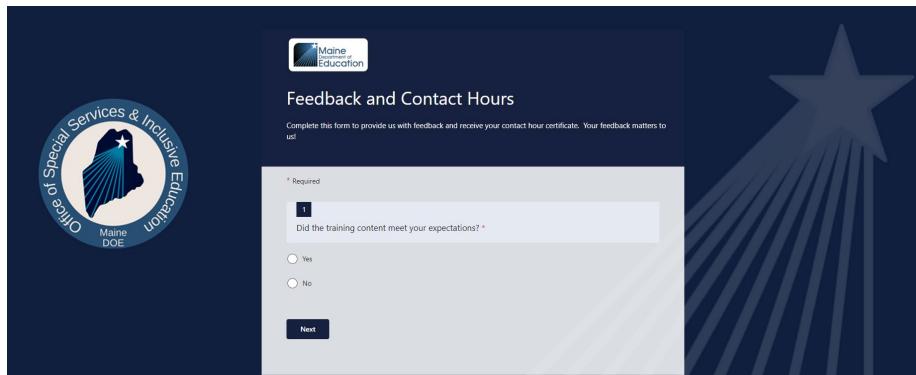
<u>DATE</u>	<u>TOPIC/DESCRIPTION</u>	<u>REGISTRATION LINK</u>
Wednesday 9/11/24	Resources	<a href="#">YouTube</a> <a href="#">Slides</a>
Wednesday 9/25/24	IEP Essentials for New Teachers	<a href="#">YouTube</a> <a href="#">Slides</a>
Wednesday 10/9/24	Alignment	<a href="#">YouTube</a> <a href="#">Slides</a>
Tuesday 10/15/24	All District IEP Training	<a href="#">YouTube</a> <a href="#">Slides</a>
Wednesday 10/23/24	Advanced Written Notice and Written Notice	<a href="#">YouTube</a> <a href="#">Slides</a>
Thursday 10/31/24	All District B13 Training	<a href="#">YouTube</a> <a href="#">Slides</a>
Wednesday 11/13/24	Inclusion Presented by: Tracy Whitlock	<a href="#">Recording coming soon</a>
Wednesday 12/11/24	How Community Case Managers Can Help IEP Teams Presented by: KVBH	<a href="#">Recording coming soon</a>

## 2024-25 Professional Development Schedule (cont.)

<u>DATE</u>	<u>TOPIC/DESCRIPTION</u>	<u>REGISTRATION LINK</u>
Wednesday 1/8/25	Alternate Assessments Guest Speaker: Jodi Bossio-Smith	<a href="#">Recording coming soon</a>
Wednesday 1/22/25	Compliant versus Good IEPs Developing a Strong IEP Part 1	<a href="#">Recording coming soon</a>
Wednesday 2/12/25	Compliant versus Good IEPs Developing a Strong IEP Part 2	<a href="#">Recording coming soon</a>
Wednesday 2/26/25	Accommodations and Services	<a href="#">Recording coming soon</a>
Wednesday 3/12/25	Transition from CDS to Public School Guest Speaker: Lori Whittemore	<a href="#">Recording coming soon</a>
Wednesday 3/26/25	Abbreviated Day	<a href="#">Recording coming soon</a>
Wednesday 4/9/25	Special Education Law for General Education Teachers Guest Speaker: Leigh Lardieri	<a href="#">Recording coming soon</a>
Monday 5/12/25	All District B13 Transition Training	<a href="#">Recording coming soon</a>
Wednesday 5/14/25	Forms	<a href="#">Recording coming soon</a>
Friday 5/28/25	Discipline & Manifestation Determination	<a href="#">Discipline &amp; Manifestation Determination</a>



## Professional Learning Feedback and Contact Hour Form.



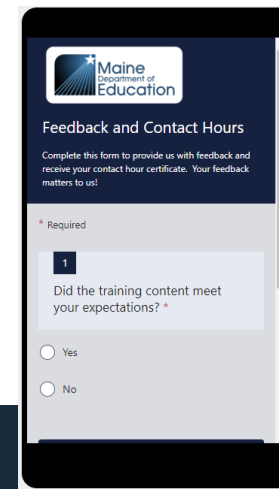
The screenshot shows a web browser displaying the "Feedback and Contact Hours" form. On the left is the circular logo for the "Office of Special Services & Inclusive Education" with the "Maine DOE" text below it. The form header includes the "Maine Department of Education" logo and the title "Feedback and Contact Hours". Below the title is a sub-header: "Complete this form to provide us with feedback and receive your contact hour certificate. Your feedback matters to us!". The form body contains a section labeled "\* Required" with a question number "1" in a blue box. The question is "Did the training content meet your expectations? \*". There are two radio button options: "Yes" and "No". At the bottom of the form is a "Next" button. The background of the page features a large, faint star graphic with rays emanating from it.

Use the link to complete the form  
on your computer

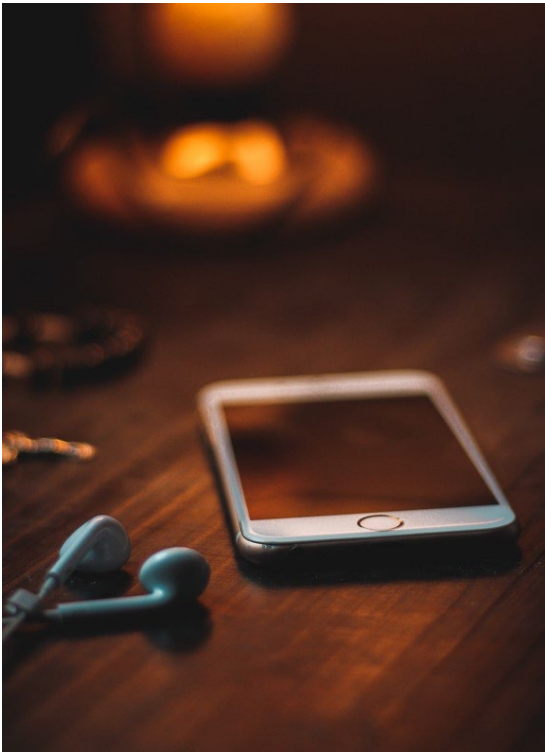
OR

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

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



This screenshot shows the same "Feedback and Contact Hours" form as the desktop version, but displayed on a mobile phone screen. The layout is adapted for a smaller screen, with the "Maine Department of Education" logo and form title at the top. The question "Did the training content meet your expectations? \*" is clearly visible, along with the "Yes" and "No" radio button options and the "Next" button at the bottom.



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