



**Fauquier County Public Schools**  
**Local Policies and Procedures Required for Implementing Special Education Regulatory Requirements**

**July, 2014**

The following policies and procedures are required to implement the January 25, 2010 *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (Virginia Regulations).

**I. LOCAL POLICY**

**A. General Policy Statement.** 8 VAC 20-81-30 A; 8 VAC 20-81-230 B. 1.a.

It is the policy of Fauquier County Public Schools (FCPS) to adhere to federal and state regulations as they have been promulgated by the United States department of Education and the Virginia Board of Education to implement special education programs for children with disabilities, consistent with the Individuals with Disabilities Education Act (IDEA). Specifically, these mandates are detailed in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (Virginia Regulations effective January 25, 2010) and any additional documents that the Virginia Department of Education publishes to address federal and state statutes and regulations for delivering special education and related services to children.

**B. Other Policies**

**1. The use of “developmental delayed” classification.** 8 VAC 20-81-9- M

FCPS uses the classification of developmental delay for the detection of students with disabilities for IDEA eligibility. This means a disability affecting children aged two by September 30th and through six inclusive.

**2. Prohibition of harassment to children with disabilities.** 8 VAC 20-81-200 N.

FCPS prohibits the harassment of children with disabilities in academic and nonacademic settings during the school day and for school-sponsored extracurricular activities.

**II. REQUIRED LOCAL PROCEDURES**

**Child Find Procedures**

8 VAC 20-81-50

- A. FCPS will implement on-going and continuous strategies to identify, locate, and evaluate children residing or parentally placed in private schools (including those that are home-schooled or home-tutored) within its jurisdiction who are birth to age 21 and need special education and related service as defined in the Virginia Regulations. Strategies will focus on: children in typical homes; children who are mobile, including those who are homeless or migrant, and who are wards of the state; children who are under 18, who are suspected of having a disability who need special education and related services, and who are incarcerated in a regional or local jail for 10 or more days; and children who are suspected of being children with disabilities, even though they are advancing from grade to grade.
- B. Strategies to identify children who are parentally placed in private schools will be designed after consultation with representatives of those settings. The strategies will include at a minimum:

1. Information provided on Child Find and special education eligibility and services distributed to physicians' offices; public places such as libraries and Department of Social Services; homeless shelters, public and private agencies, and other locations in the community
  2. An annual notice/description of services published in the FCPS parent/student handbook;
  3. An annual meeting with and information provided to private schools and parents who home-school and home-tutor about special education and how to refer a student for a special education evaluation;
  4. An annual letter and meeting with private school/day care providers and parents of children who attend those (include parents who home-school);
  5. Screening in each school as required in the Virginia Regulations which includes screening in the areas of speech and language, fine and gross motor, scoliosis, vision, and hearing for new students and at selected grade levels;
  6. An interagency agreement with Part C providers on referrals to Part B services; and
  7. An interagency agreement with the Fauquier Regional Jail on the identification of special education-eligible individuals and special education services available for those individuals who are incarcerated at that facility.
- C. These efforts will ensure an accurate count of these children.
- D. These efforts will ensure that the cost associated with carrying out these requirements for parentally-placed private school children, including individual evaluation, will not be considered in determining if FCPS has met its obligations for calculation of its expenditures under federal and state regulations governing special education.

### **Screening Procedures**

- A. FCPS will assign responsibility for each area of screening to qualified professionals who will assume responsibility for conducting the screening in assigned schools, including recruitment and training of appropriate volunteers and other staff to ensure that the screenings are conducted within the required timelines, for children enrolled in FCPS, including transfers. A student's pre-school physical examination required under the Code of Virginia will be accepted for the screening if the area(s) of screening to be conducted were included and documented on the physical examination form.
- B. Those conducting each area of screening will document results on a screening form and ensure that it is filed in a confidential manner in the student's scholastic record. After the screening is conducted, the assigned professional will inform parents of the results of the screening. In addition, those responsible for the screening will follow-up on failed screenings by scheduling re-screenings or making referrals for special education evaluations as appropriate.
- C. Screening timelines and additional procedures will be implemented as follows:
1. Hearing and vision screenings will be conducted within 60 administrative days of the opening of the school year for all children in grades K, 3, 7, and 10.
  2. Speech, voice, language, and fine and gross motor will be screened within 60 administrative days of the opening of school for all new enrollees including those in kindergarten and those who transfer in the school division for the first time.
  3. FCPS will implement a scoliosis program consisting of the provision of parent educational information on scoliosis to the parents of students in grades

- 5 through 10 within 60 business days after the opening of school each year. Parent educational information on scoliosis shall include but not be limited to (i) a definition of scoliosis, (ii) a description of how scoliosis is identified, (iii) a statement describing why it is important to screen for the condition, (iv) a description of the types of screening procedures, (v) a description of potential treatments for the condition, and (vi) information on where screening may be obtained.
4. FCPS will provide written notice to parents of the scheduled screening (s) within reasonable period of time not to exceed 30 days. The notice shall include the purpose of the screening, when it will occur, and if the child fails the screening, the results of the screening.
- D. FCPS will designate persons responsible for ensuring that children are referred to the special education administrator or designee if results from the screening suggest that a referral for evaluation for special education and related services is indicated. The designated persons will ensure that the referral includes the screening results.

### **Referral Procedures**

- A. Referrals will be accepted in written, electronic, or oral form by each school's principal or designee for children aged two to 21, suspected of having a disability, regardless of whether the child is enrolled in public school. Referrals will be received from any source including parents, school staff, the Child Study Team, the Virginia Department of Education, any other state agency, or other individuals regarding children who are residents of the Fauquier County or who attend a private school that is located within Fauquier County. Once a referral is received, the principal or designee will ensure that the referral is documented on a referral form which includes the child's name, the reason for the referral and efforts made to address the concerns, the date the referral was received, the name of the person or agency making the referral, the parent's name, and contact information for the parent.
- B. Within 10 business days, the referral will be reviewed by a school team which includes the referring source, as appropriate, the principal or assistant principal, the designee, at least one teacher, at least one specialist, and one member who is knowledgeable about alternative interventions and about procedures required to access programs and services that are available to assist with children's educational needs. Additional professionals may be included as appropriate and based on the reason for the referral.
- C. This team will review the reason for the referral and review the child's record and any other performance evidence or data that will be used to make recommendations for educational and/or behavioral needs. The team may determine that: (1) the referral for special education is not needed for the student, noting that the child is performing adequately; (2) recommend interventions with prescribed review dates; or (3) refer the child for a special education evaluation. All decisions of this team shall be documented in writing and include information upon which a decision was based. Such documentation shall be maintained in the student's scholastic record.
- D. The team may refer the student back to the response-to-intervention team for identifying recommended strategies which are research-based and will gather data documenting the student's response to the applied intervention. The response-to-intervention team will schedule regular meetings to discuss the data and the student's progress and to determine whether additional interventions are needed. The use of these strategies will not delay or interfere with the appropriate referral for special education evaluation which may be administered concurrently with team recommended interventions. Referrals from the team for a special education evaluation will be forwarded to the special education administrator or designee within 3 days of their decision.

- E. If the team decides not to refer the student for a special education evaluation, the parent will be provided with prior written notice indicating that the request for a special education evaluation was refused, the reasons for the decision, a description of other options the team considered and reasons why they were not accepted, a description of the evaluation information (each evaluation procedure, assessment, record or report) used to make the decision, and any other factors that were relevant to the team's decision, and their right to appeal the decision through a due process hearing. The parents will be given a copy of the procedural safeguards.
- F. If the referral is made to the special education administrator or designee, within three business days, the special education administrator or designee will initiate the evaluation-eligibility process, forward the referral to the school team to review and respond to the request, or deny the request. If the referral is made by a parent, the parent will be notified of the decision. If the request is denied, the parent will be provided prior written notice as already described and as is required at 8 VAC 20-81-170 of the Virginia Regulations.

### **Referral for Initial Evaluation for Special Education**

8 VAC 20-81-60

- A. FCPS will ensure that these referral procedures apply to all children, aged two to 21, inclusive, who are residents in accordance with the Virginia Regulations, whether enrolled in public school or not, who are suspected of having a disability.
- B. All referral for initial special education evaluations will be processed using the referral procedures detailed above. Referrals from a school-based team or referrals accepted and initiated by the special education administrator/designee will result in the start of the process of determining eligibility for special education and related services.
  - 1. The special education administrator/designee will ensure to record the date the referral was received, reason for referral, and name (s) of the person or agency making the referral.
- C. Once the referral for a special education evaluation is made by the school-based team or accepted by the special education administrator/designee, prior written notice indicating the child has been referred for an evaluation and the purpose of the evaluation along with the procedural safeguards notice will be provided to the parents in their native language or primary mode of communication. Parents will also be informed of the procedures used to determine what evaluation data is needed and request any evaluation information that the parent may have on the child.
- D. Evaluations to be administered will be identified and will be included to enable the school division to gather relevant functional, developmental, or academic information about the child so the eligibility team will be able to determine if the child is a child with a disability in need of special education and related services. The evaluation process will be sufficiently comprehensive to enable the school division to determine, if the child is eligible, the child's special education and related services needs, as well as educational needs. The principal/designee or special education administrator/designee will secure informed consent for the evaluation process prior to initiating the evaluations.
- E. Professionals will be assigned to complete evaluations consistent with their expertise, and will be provided with a deadline for completion to ensure that eligibility decisions are made within 65 business days from child study meeting for the special education evaluation. The 65 business day timeline may be extended if the parent and eligibility team agree in writing that additional time is needed to obtain data. This timeline does not apply in the following circumstances:
  - 1. for those students whose parents repeatedly fail to produce the child for the evaluation; or

2. for a child that enrolls in FCPS after the 65 business days has begun in a previous school division, but prior to a determination by the child's previous school and/or school division as to whether the child is a child with a disability, FCPS will work to complete the evaluation expediently. This exception only applies if FCPS is making sufficient progress to ensure a prompt completion of the evaluation and the parents and FCPS agree to a specific time when the evaluation will be completed.
- F. The staff will comply with all requirements related to confidentiality of student records throughout the evaluation and eligibility process.
- G. FCPS acknowledges the following parent consent requirements:
1. parental consent is not required before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all children, unless parental consent is required before administration to all children.
  2. parental consent for initial evaluation shall not be construed as consent for initial provision of special education and related services.
  3. FCPS shall make reasonable efforts to obtain parental consent for an initial evaluation to determine whether the child is a child with a disability.
  4. for initial evaluations only, if the child is a ward of the state and is not residing with the child's parent, FCPS is not required to obtain parental consent to determine whether the child is a child with a disability if:
    - a. despite reasonable efforts to do so, FCPS cannot discover the whereabouts of the parent of the child;
    - b. the rights of the parents of the child have been terminated in accordance with Virginia law;
    - c. the rights of the parent to make educational decisions have been subrogated by a judge in accordance with Virginia law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child. FCPS shall then proceed with evaluating the child without finalizing the appointment of a surrogate parent.
  5. if the parent does not provide consent for the initial evaluation, or fails to respond to a request to provide consent, FCPS may, but is not required to, use the dispute resolution options of mediation or due process to pursue the initial evaluation of the child. FCPS does not violate its obligation under child find or other free appropriate public education provisions if it declines to pursue evaluation.
  6. if the parent of a child who is home-instructed or home-tutored, or who is placed in a private school by the parent(s) at the parent's own expense, does not provide consent for initial evaluation, or the parent fails to respond to a request to provide consent, FCPS may not use mediation or due process to pursue the initial evaluation.

**Evaluation and Reevaluation**  
**8 VAC 20-81-70**

- A. The school-based team, consistent with the make-up of an IEP team, will determine which evaluation components are needed to provide data required for the eligibility team to make a decision. In order to make this determination, the team will meet to review existing evaluation data, including evaluations and information provided by the parents and current classroom-based, local, and/or state assessments and classroom-based observations, and observations by teachers and related services providers. The parent will be provided written notice of the meeting at least five business days prior to the meeting to ensure that the parent will have an opportunity to participate in the review. The notice will include the purpose, date, time,

and location of the meeting and who will be in attendance, and it will inform the parent that both FCPS and the parent may invite to the meeting other individuals, including related services personnel, who have knowledge or expertise about their child, if appropriate.

- B. Based on the information available, the team including the parent(s) will identify what additional data is needed, if any, to determine the following:
  - 1. whether the child is (or continues to be) a child with a disability,
  - 2. the present educational needs of the child,
  - 3. the child's present level of academic achievement and related developmental needs,
    - a. whether the child needs (or continues to need) special education and related services, and
    - b. whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals included in the child's IEP and to participate, as appropriate, in the general educational curriculum.
- C. If it is determined that additional data is needed, school personnel will ensure that tests and other evaluation materials will be completed, as necessary, to obtain the data to address issues B. 1-3, above.
- D. If no additional data is needed to address the issues above, the school-based team will provide the parent(s) with prior written notice of the decision. The prior written notice will meet all requirements detailed in the Virginia Regulations at 8 VAC 20-81-170. The notice will include information regarding the determination and the reasons for it, and the right of the parent(s) to request an evaluation to determine whether the child continues to be a child with a disability and to determine the child's educational needs. In addition, the school-based team will document that the parent was informed of the following:
  - 1. FCPS is not required to conduct an evaluation if the team has determined that it has enough information to determine whether the child is or continues to be a child with a disability and to determine the child's educational needs, unless the parent(s) request an evaluation for these specific purposes;
  - 2. a review of the information that conforms with the required process will be considered the evaluation if no additional data are needed;
  - 3. the parent has the right to appeal the decision through the use of mediation or due process proceedings.
- E. If the school-based team determines not to evaluate a child suspected of a disability, it must provide the parent with a prior written notice that meets all requirements detailed in the Virginia Regulations, at 8 VAC 20-81-170, including the parent's rights to appeal the decision through due process proceedings.
- F. School personnel will obtain informed parental consent before conducting any evaluations or reevaluations. For a reevaluation, if FCPS can demonstrate reasonable measures to obtain consent and that the child's parent failed to respond, FCPS will proceed with the evaluation as if consent has been received. To demonstrate reasonable measures, FCPS will have provided notice to the parent in writing at least twice and will have contacted the parent by phone if the parent has a phone.
  - 1. If the parent refuses consent, FCPS may pursue those evaluations by using due process hearing procedures or mediation, but the school division is not required to do so.
  - 2. Consent will not be required for any of the following: If the team decides that a review of existing data is sufficient; for a teacher or related service provider to report their observations of the child or ongoing classroom evaluations; or before administering a test or evaluation that is administered to all children, unless parental consent is required from all parents prior to the administration of the test.

- A. A variety of evaluation or assessment tools and strategies, sufficiently comprehensive to identify all of the child's special education and related services needs (whether or not commonly linked to the disability category used for the child's classification), will be used to gather relevant functional, developmental, and academic information about the child, including information provided by the parent(s), and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities).
  - 1. This information will be used to determine whether the child is a child with a disability, the child's educational needs, and the content of the child's IEP. No single measure will be used as a sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for a child.
- B. Initial evaluations and reevaluations other than the triennial shall be completed so that the eligibility decision can be made within 65 business days from the receipt of the referral by the Director of Special Education or a designee. If the parent and FCPS agree, the 65 business day timeline may be extended in order to obtain information that could not be obtained during the 65 business day timeline. This agreement must be in writing. Triennial reevaluations will be initiated in sufficient time to ensure that an eligibility determination can be completed within three years of the anniversary date of the previous eligibility decision.
- C. All evaluation assessments and materials will be selected and administered to ensure no racial or cultural bias. In addition, evaluations will be provided and administered in the child's native language and in ways that are most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.
  - 1. All assessments will be used for the purposes for which they are valid and reliable and will be administered by personnel that are trained and knowledgeable regarding the instructions provided by the producer of the assessments.
  - 2. Assessment tools will be selected to assess specific areas of educational need rather than produce a single general intelligence quotient.
  - 3. If the child has impaired sensory, motor, or communication skills, assessments will be used that take that into consideration so as to measure accurately the child's aptitude or achievement or whatever the test is designed to assess, rather than reflecting the impairment in the child's sensory, motor, or communication skills.
  - 4. Assessments that are used to assess the relative contribution of cognitive, behavior, physical or developmental factors will be technically sound.
  - 5. If the child being assessed is limited in English proficiency, assessments will be selected and administered to ensure that they measure the extent that the child has a disability and needs special education, rather than measuring the child's English skills.
- D. If assessments are conducted under non-standard conditions, those conditions, including the extent to which the assessment varied from the standard conditions, will be included in the evaluation report and whether the non-standardized assessment administered by a qualified professional is useful in the determination of whether the child is a child with a disability and is useful in contributing to the contents of the child's IEP.
- E. If the evaluation requires assessments in more than one area relating to the suspected disability, a team of professionals, including at least one teacher or other specialist with knowledge in the areas of the suspected disability, will complete the assessments. A part of the evaluation process will include an observation focused on academic performance in the general education classroom that will be made by at least one professional on the evaluation team other than the child's teacher. If the child is not school-age, the observation will be conducted in an environment appropriate for a child of that age which may include the home or a preschool setting.

- F. All areas related to the suspected disability will be assessed by qualified professionals which may include, as appropriate, health, vision, hearing, social and emotional development, general intelligence, academic performance, communication skills, motor skills, and adaptive behavior. Evaluation components may include educational, medical, sociocultural, psychological, or developmental assessments. Hearing, however, will be screened for all children during an initial eligibility evaluation. If the child is hearing impaired or deaf, or if the child fails two hearing screening tests, a complete audiological evaluation, including tests to assess inner and middle ear functioning will be conducted.
- G. The evaluation reports will be available to parents at the Office of Special Education at least two business days prior to the meeting to determine eligibility. A written copy of the reports will be provided to parents prior to or at the meeting where the eligibility team reviews the reports, or immediately following the meeting, but no later than 10 days after the meeting. Copies of the evaluation reports will be provided at no cost to parents.
- H. If a child transfers to FCPS during the evaluation process, FCPS will work with the child's previous school and/or school division to ensure that the child's evaluation and eligibility determination process is promptly completed. In this instance, the 65 business timeline for the completion of the evaluation and eligibility process may be extended if the following requirements are met:
  1. the parent and the school-based team agree to extend the timeline and set a mutually-agreeable date upon which the evaluation and eligibility process will be completed, and
  2. sufficient progress is being made to ensure a prompt completion of the evaluation.
- I. Reevaluations will be conducted at least every three years, unless FCPS and the parent agree that a reevaluation is not necessary.
- J. Reevaluations may be conducted more frequently if FCPS determines that it needs new information to determine the child's educational or related services needs, including improved academic achievement and functional performance, or if the parent(s) or teacher(s) request a reevaluation. Upon the request from a parent or teacher, the child's school-based team, consistent with the make-up of the IEP team, will convene to discuss the request and determine what, if any, evaluation components will be conducted. Evaluations will not be conducted more than once per year unless the parent and FCPS agree otherwise. Prior written notice that meets the requirements in the Virginia Regulations, at 8 VAC 20-81-170 C., will be provided the parent of the decision regarding the reevaluation request.
- K. For a child who is home-schooled, home-tutored, or who is parentally-placed in a private school at the parent's expense, FCPS is not permitted to use mediation or due process to pursue consent from a parent who refuses to provide consent for an evaluation or reevaluation, or who fails to respond to a request for consent. In this instance, the child will not be evaluated, and will not be eligible for equitable services as a parentally placed student under 8 VAC 20-81-150 of Virginia Regulations.
- L. FCPS will not be required to evaluate a student solely because the student is graduating with a standard or advanced diploma, even though this will be considered a change in placement. Prior written notice, however, will be provided to parent(s) informing them that upon graduation the child will no longer be eligible for special education and related services. In addition, FCPS will ensure that all other requirements of the Virginia Regulations, at 8 VAC 20-81-170, regarding prior written notice, will be met.

**Eligibility Determination  
8 VAC 20-81-80**

- A. Following the completion of the administration of the assessments and other evaluation materials, or after a determination by the school-based team that additional data was not needed, the eligibility team will determine if the child is or continues to be a child with a disability and the child's educational needs. The eligibility decision must be made on an individual basis.

- B. The eligibility team will, at a minimum, meet the team composition of the IEP team. This team must include personnel representing the disciplines providing the assessments, the school principal or assistant principal (serving as the special education administrator's designee), the parent(s); a special education teacher; at least one general education teacher of the child (or someone qualified to teach the child of that age if the child does not have a teacher or if the child is a preschooler); at least one person qualified to conduct individual diagnostic examination (such as a school psychologist, speech pathologist, or remedial reading teacher). This team will be qualified to conduct individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development and social-emotional development, as appropriate, interpret the assessment and intervention data, apply critical analysis to the data, and develop appropriate educational and transitional recommendations based on the assessment data. The eligibility team will provide the parent with procedural safeguards in accordance with the Virginia Regulations, at 8 VAC 20-81-170, including the notice requirements, when determining eligibility and in ensuring the confidentiality of records.
- C. When interpreting data to determine whether or not a child is a child with a disability and to determine the child's educational needs, the team will carefully consider, and document its use of information from a variety of sources, including all of the assessments prescribed by the school-based team for the evaluation, aptitude and achievement tests, parent input and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. The team may also use information obtained as a result of the child's participation in the school division's response to intervention process. (For additional information regarding the FCPS' response to intervention procedures, please see the FCPS Response to Intervention Handbook.) The team will also consider any evaluation information provided by the parent(s).
- D. Prior to determining a child's eligibility, the eligibility team must also review information from an observation of the child. The observation must have occurred in the child's learning environment (including the general education classroom setting), and it must have documented the child's academic performance and behavior in the area of difficulty. The observation may have occurred in routine classroom instruction and monitoring of the child's performance before the child was referred for an evaluation. In the alternative, at least one member of the eligibility team must conduct an observation of the child's academic performance in the general education classroom after the child was referred for an evaluation and parental consent was obtained. (For preschool children, or a student out of school, the team member shall observe the child in an environment appropriate for a child of that age.)
- E. The team will analyze the data against the eligibility criteria. The team will only find a child eligible for special education and related services if the child meets the eligibility criteria to be a child with a disability, and if the team finds that there is documented evidence that as a result of the child's disability, the child needs special education and related services. Lack of appropriate instruction in the essential components of reading instruction (including phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies), a lack of appropriate instruction in math, or a child's limited English proficiency will be considered and, if these are determining factors, the child will not be found eligible.
- F. The eligibility team will consider, as part of the evaluation, data that demonstrates that prior to, or as part of the referral process, the child was provided appropriate high-quality, researched-based instruction in general education settings, consistent with the requirements of the No Child Left Behind Act, at §1111(b)(8)(D) and (E), including that the instruction was delivered by qualified personnel. There must be data-based documentation that repeated assessments of achievement at reasonable intervals, reflecting that formal assessment of student progress during instruction was provided to the child's parents. 10
- G. The team will work toward consensus in reaching its decision. If the team does not reach consensus and if the decision does not reflect a member's conclusion, then the team member will be required to submit a written statement indicating the member's conclusion. Written parental consent will be secured for the initial eligibility determination and any change in categorical identification.

- H. A child, aged two, who was previously served by Part C, must meet the criteria of Part B in order to be provided special education and related services. For a child served by Part C after age two, and whose third birthday occurs during the summer, the IEP team for an eligible child will determine when the child will begin to receive Part B services, thus transitioning from Part C to Part B.
- I. A child will only be provided related services when found eligible for special education. Once a child is found eligible for special education, the IEP team will make decisions about the child's need for related services, and may request an evaluation, if determined necessary. All information presented will be documented and summarized during the meeting. A summary of deliberations will include the basis for the determination of eligibility and a written statement from any member who disagrees with the team's conclusion. The summary may include other recommendations, will be maintained in the child's scholastic record, and will be forwarded to the IEP team, including the parent, following the eligibility determination.
- J. For a child found not eligible, information relevant to instruction will be provided to the child's teachers or any appropriate committee. In addition, prior written notice, in accordance with 8 VAC 20-81-170, will be given to the parent(s) including the parent(s)' right to appeal the decision through the due process hearing procedures. If the child is parentally-placed in a private school within Fauquier County, but the parent resides in a different locality, parent consent will be secured before sharing the information with another local educational agency.
- K. The eligibility team must provide the parent at no cost a copy of all of the documentation regarding the eligibility determination. This documentation must include a statement of:
1. Whether the child has a specific disability.
  2. The basis for making the determination including an assurance that the eligibility determination was made in accordance with the Virginia Regulations regarding determining eligibility and educational need.
  3. The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning.
  4. The educationally relevant medical findings, if any.
  5. If the child participated in the division's response to intervention process, a statement of the instructional strategies used and the student-centered data collected during that process. This document must also include:
    - a) Information regarding the school division's notification to the parent of the Virginia Department of Education's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
    - b) The strategies that were used to increase the child's rate of learning; and
    - c) The parent's right to request an evaluation.
    - d) (For additional information regarding the school division's response to intervention procedures, please see the school division's "Response to Intervention Handbook".)
  6. If a child is determined eligible as a child with a specific learning disability, document that the eligibility team's determination was consistent with each of the requirements of 8 VAC 20-81-80 T. 2.
- L. Within 30 days of an initial determination of eligibility, an IEP must be developed for the child in accordance with the requirements in the Virginia Regulations, at 8 VAC 20-81-110. Following a reevaluation, unless there is a change in the child's eligibility for special education and related services or a change in the child's educational needs, or unless the parent requests a meeting to review and revise the child's IEP, the IEP team is not required to convene.

**Surrogate Parents**  
**8 VAC 20-81-220**

- A. The special education administrator/designee for FCPS will be responsible for identifying those who are willing and qualified to serve as surrogate parents.
- B. To be qualified as a surrogate parent, an individual must have no personal or professional interest that conflicts with the interest of the child, have knowledge and skills that will ensure adequate representation of the child, be of the age of majority, and not be an employee of the Virginia Department of Education, this school division, or any other agency that is involved in the education or care of the child. If otherwise qualified, a person will not be considered to be an “employee” solely because they are paid to serve as a surrogate parent.
- C. If the child is an unaccompanied homeless youth, the special education administrator/ designee may permit appropriate staff of an emergency shelter, transition shelter, independent living program, or street outreach program to be appointed as a temporary surrogate even though the staff member is an employee of an agency that is involved in the education or care of the child. The temporary surrogate must meet the other qualifications for a surrogate parent, and may serve only until a surrogate parent meeting all of the qualifications for a surrogate parent can be assigned.
- D. While every effort will be made to secure individuals willing to serve as surrogates from within FCPS, individuals from outside FCPS may be secured if necessary to ensure that someone qualified is available to represent the needs of the students in meetings pertaining to special education eligibility and services. In addition, others may be eligible once a need is identified, such as a child’s relative, depending on the child’s needs, and the availability of qualified persons familiar with the child and who would otherwise qualify. The special education administrator/designee may involve the child in the selection, if appropriate.
- E. When a school cannot identify or with reasonable efforts locate someone who qualifies as a “parent” in accordance with the Virginia Regulations, the school will contact the special education administrator/designee who will confirm the need for a surrogate and appoint a surrogate within 30 calendar days for the student, if one is needed. Once appointed, the child (as appropriate to the disability), the appointed surrogate parent, and the person charged with the responsibility for the child will be notified in writing that the appointment has been made. The surrogate parent will be assigned to serve for the duration of the school year unless a shorter period of time is appropriate given the content of the child’s IEP. At the end of each school year, following a review, a determination will be made regarding whether the appointment of a surrogate parent will be renewed or not. Appointments may also be extended as needed, if the child requires the services of a surrogate during the summer months.
- F. Termination of a surrogate parent will occur when the child reaches the age of majority and rights are transferred to the child or to an educational representative who has been appointed in accordance with the transfer of rights procedures; when the child is no longer eligible for special education services and the surrogate parent has consented to the termination of services; when legal guardianship has transferred to a person who can serve as the parent in special education matters; when the parent whose whereabouts previously were unknown is now known and the parent is available; or when the appointed surrogate is no longer qualified.
- G. If a surrogate wants to challenge the surrogate qualifications, or if the surrogate is terminated prior to the end of the appointment and wishes to appeal the decision, a request for a hearing may be made to the division superintendent who will convene a panel which shall include a principal, a

school board member, and the school board attorney who will hear evidence presented and make a decision.

### **III. REQUIRED LOCAL POLICY**

#### **Limitations on the use of audio recordings and whether the use of video recording is allowed or prohibited 8 VAC 20-81-170J**

FCPS limits the use of audio recordings to only those situations required in the Virginia Regulations. FCPS does not allow the use of video recording for all situations in which audio recordings are required in the Virginia Regulations.

#### **The use of response to scientifically-based interventions to determine the need for a referral for a special education evaluation and as a part of the evaluation information to determine eligibility 8 VAC 20-81-50 D.4; 8 VAC 20-81-80 D.6**

FCPS uses a variety of sources of evidence, including response to scientifically-based interventions, to determine the need for a referral for a special education evaluation and as a part of the evaluation information to determine eligibility. FCPS, however, will not delay the evaluation of a student who is suspected of having a disability while these interventions are being implemented.

#### **IEP Team member excusal 8 VAC 20-81-110D**

FCPS permits required members of the IEP to be excused from attending IEP team meetings, in whole or in part with written consent from parent.

#### **IEP Amendment without a Meeting 8 VAC 20-81-110 B.9**

After a child's annual IEP team meeting for the school year, the parent(s) and FCPS may agree to develop a written amendment to a child's IEP without convening an IEP meeting. If changes are made to a child's IEP without a meeting, FCPS must ensure that the child's IEP team is informed of the changes, and that the parent, upon request, is provided a revised copy of the child's IEP with the amendment incorporated. This process is not a substitute for the required annual IEP meeting.

#### **Disproportionality 8 VAC 20-81-20 #25**

In the event that FCPS is found to have significant disproportionality based on race and ethnicity in the identification and placement of students with disabilities, it will review and revise its policies, procedures, and practices to ensure compliance with disproportionality requirements. Such changes will be reported publicly. FCPS will respond to the Virginia Department of Education's reporting requirements for LEAs on local data relative to disproportionality, and as necessary, corrective measures.

#### **Long-term Removals 8 VAC 20-81-20 #31**

In the event that FCPS is found to have discrepancies in the rate of long-term suspensions and expulsions of students with disabilities (including by race or ethnicity), as compared to the rates for children without disabilities, FCPS will review its policies, procedures, and practices related to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that students with disabilities are not inappropriately long-term suspended or expelled.

FCPS will respond to the Virginia Department of Education’s reporting requirements for LEAs on local data relative to long-term suspensions and expulsion of students with disabilities, and as necessary, corrective measures.

**Residency**  
**8 VAC 20-81-30 I**

FCPS allows children with disabilities who are not residents of Virginia but are living temporarily with adults who do not otherwise meet the definition of parent(s) residing within a school division to be admitted to the school division for special education and related services. Tuition will be charged based as with any other non-resident student who attends on tuition.

**Hearing – Student Records**  
**8 VAC 20-81-170 G.7 & 9**

Upon parental request, to resolve disputes regarding the child’s education records, FCPS will convene a hearing, in accordance with the Virginia special education hearing officer system specified in 8 VAC 20-81-210, to ensure that the information included in a child’s education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.