

# *Information Bulletin*

*on*

## *Standards for Special Education, Amended June 2004*

This Information Bulletin is intended to clarify the intent of some of the requirements contained in *Standards for Special Education, Amended June 2004 (Standards)* and to provide additional information on those standards where there have been issues relating to their application at the jurisdiction level.

Rights and responsibilities related to special education are included in the Alberta *School Act*. School boards are required to provide each resident or enrolled non-resident student who has identified special education needs with access to a special education program.

*Standards* is a Ministerial Order and, as such, has the force of law for grades 1 to 12 special education in public and separate school boards in Alberta, including Francophone regional education authorities, but excluding charter schools. Designated special education private schools are required to provide special education programming in accordance with the *Standards*, excepting requirement 16(e), as set out in the *Private Schools Regulation*.

The explanations in this Bulletin are based on Canadian case law, professional codes of ethics, and good practice. Relevant references are found in **Additional Information** at the end of each section.

### **Parent Involvement in Decision Making and Informed Consent**

Parental involvement in decision making is discussed generally, and specifically regarding specialized assessment and individualized program plans (IPPs).

The right of parents to participate in the decision-making process affecting the education of their children is emphasized in several places in *Standards* as is the parents' right to make certain decisions about their child's education. Further, schools have the responsibility to ensure parental decisions are based on the best available information.

### **Requirements from Standards**

8. *School boards must:*
- a. *ensure parents have the opportunity for participation in decisions that affect students' education*
  - b. *ensure parents have information needed to make informed decisions*
  - c. *invite meaningful involvement of parents in planning, problem-solving and decision-making relating to students' special education programming (p. 9)*

School boards must:

- *obtain parents' informed written consent for specialized assessments or referral (1a, p. 6; 4c, p. 7)*
- *in cases when parents refuse consent, document and place in the student record the reasons for refusal and/or actions undertaken by the school board to obtain consent (1b, p. 6; 11f, p. 10) and/or resolve concerns (11f, p. 10).*
- *obtain written informed consent from parents to provide coordinated services to students, when required, and as identified in students' IPPs (6c, p. 8)*
- *obtain written informed parental consent on IPPs to indicate agreement with the IPP (11f, p. 10)*

### **Definitions**

*"Informed consent" means that the individual:*

- *has been provided with all information relevant to the activity for which consent is sought*
- *understands and agrees, in writing, to the carrying out of the activity for which his or her consent is sought*
- *understands that the granting of consent is voluntary and may be withdrawn at any time (p. 4)*

### **Explanation of Requirements**

Informed consent is more than a signature on a form. It is a process in which the parents confirm that they understand and agree to an activity that is directly related to addressing a student's special education needs. In ensuring that parental consent is informed consent, a school principal shall ensure that at least the following aspects have been discussed with and understood by the parent:

- the purpose and nature of the activity
- likely benefits and risks
- the likely consequences of non-action

- alternatives
- the option to refuse or withdraw at any time, and
- how to rescind consent if desired.

A statement of consent applies only to the specific activities listed on the consent form (e.g., speech therapy assessment and/or occupational therapy assessment and/or psycho-educational assessment) and applies until those activities are completed. If additional activities are contemplated, separate informed parental consent is required for these activities. There is no such thing as a blanket consent form that covers unspecified future activities.

It is good practice to specify the duration of the consent, such as six months. For example, informed consent for assessment dated in May would still be valid if the assessment were completed in September.

The original signed informed consent form should be placed in the student record and a copy given to the parent.

A parent may withdraw consent at any point in time. This should be done in writing, dated and placed in the student record. Information obtained through assessment or intervention conducted prior to the withdrawal of consent remains part of the student record.

Meaningful involvement of parents includes:

- creating the opportunity for parents to participate in decisions about their children
- considering the concerns of all participants in the decision-making process so that the parents' contribution can influence the decision.

Acceptance of the parent's wishes must not impose a significant disadvantage on the student. The lack of parental consent for specific activities does not release the board, regional authority or designated special education private school from its obligation to provide the most appropriate programming that is reasonable under the circumstances.

Ensuring the safety of the student and others takes precedence over the wishes of the parent. For example, a student who is dangerously aggressive is a threat to others if the behaviour is not controlled, and a blind student is at risk crossing a busy street if the student has not had orientation and mobility training.

### Specialized Assessment and Coordinated Services

If a parent does not consent to a specialized assessment or provision of coordinated services, a board or regional authority shall not proceed with specialized assessment or coordinated services.

If a parent does not consent to specialized assessment or coordinated services in a student's education programming, a school board or regional authority must:

- consider the individual student's characteristics, educational needs and best interests in its decision to provide special education programming and services
- provide the student with programming that is consistent with the information and resources available under the circumstances
- make reasonable adjustments for the parent's concerns in the programming provided for the student
- if necessary, advise the parent of the parent's right to appeal to the board, regional authority or designated special education private school a decision of an employee of the board or regional authority regarding a decision that significantly affects the education of a student in accordance with *Standards*
- if necessary, advise the parent of the parent's right to request that the Minister review the board or regional authority's decision regarding placement in a special education program.

A parent's refusal to allow a child to receive specialized assessment and/or coordinated services does not preclude the school seeking consultative assistance and support for staff members who are responsible for programming for the student.

### Individualized Program Plans

It is expected that parents are involved in the planning, development and implementation of their child's individualized program plan (IPP). If a parent chooses not to be involved in a child's IPP and/or does not sign the IPP, the board or regional authority shall document the attempts to obtain input and signature, place this in the student record, and implement the IPP.

If the parents refuse to sign the IPP until changes are made that are not acceptable to the board or regional authority, the school shall implement the IPP and:

- respect and record the parent's concerns about the IPP in the student record
- advise the parents of their right to appeal to the board or regional authority the decision of an employee of the board or regional authority to not make the changes desired by the parent.

### Additional Information

Several professions that work with students in school have codes of ethics and practices that address the question of when a parent's informed consent is required and the considerations in obtaining informed consent. Individuals in these professions may require informed consent for specific assessments or interventions in addition to the consent obtained through the school or other professionals.

School boards or regional authorities, in developing policies and procedures on informed consent, may consider the following statements from the Canadian Psychological Association's Canadian Code of Ethics for Psychologists (2000).

- *Recognize that informed consent is the result of a process of reaching an agreement to work collaboratively, rather than of simply having a consent form signed* (p. 10)
- *Provide, in obtaining informed consent, as much information as reasonable or prudent persons would want to know before making a decision or consenting to an activity.* (p. 11)
- *Ensure, in the process of obtaining informed consent, that at least the following points are understood: purpose and nature of the activity; mutual responsibilities; confidentiality protections and limitations; likely benefits and risks; alternatives; the likely consequences of non-action; the option to refuse or withdraw at any time, without prejudice; over what period of time the consent applies; and how to rescind consent if desired.* (p. 11)
- *Take all reasonable steps to ensure that consent is not given under conditions of coercion, undue pressure, or undue reward.* (p. 11)
- *Respect the right of persons to discontinue participation or service at any time.* (p. 12)

## Adapted and Modified Programming

### Requirements from *Standards*

The Access section of *Standards* states:

*Students with special education needs receive adapted or modified programming that enables and improves learning.* (p. 6)

### Definitions

*"Adapted programming" means programming that retains the learning outcomes of the Program of Studies and where adjustments to the instructional process are provided to address the special education needs of the student.* (p. 3)

*"Modified programming" means programming in which the learning outcomes are significantly different from the provincial curriculum and are specifically selected to meet students' special education needs.* (p. 4)

### Explanation of Requirements

These terms are used to differentiate programming using the graded curriculum and programming which is individually determined and focuses on development of personal independence.

Special education students receiving *adapted programming* are on graded curriculum and are working toward the learning outcomes of the Alberta Programs of Study, although often at a grade level different from the enrollment grade in one or more subject areas. Adapted programming provides additional resources so a student can participate actively. These resources may include:

- alternative formats for resources (e.g., Braille, audio titles)
- instructional strategies (e.g., use of interpreters, visual cues, learning aids)
- assessment procedures (e.g., oral exams, additional time, scribes)
- skill sequencing and pacing
- instructional materials
- assistive technology and specialized equipment
- supplementary services
- change of setting.

The student's IPP must reflect these adaptations. Students receiving adapted programming are assessed using the curriculum standards, although they may require access to novel assessment methods to demonstrate their level of skills and knowledge.

Gifted students usually receive some form of adapted programming. These students work on the graded curriculum but may be significantly advanced in one or more areas when compared

with their peers. Options for programming may include faster pacing, greater emphasis on higher cognitive processes, independent research, access to mentors and resources not available or appropriate to most students.

Students receiving *modified programming* are not on graded curriculum but receive programming that focuses on life skills, foundational skills and academic readiness skills, and this is reflected in their IPPs. Modified programming has learning outcomes that are specifically selected to meet a student's special education needs. For example, a student in a Grade 5 language arts classroom may be working on recognizing common signs or using the telephone, and a student in a Grade 9 mathematics classroom may be learning to make change or to budget his allowance. Students in modified programming also have access to alternative formats, specialized equipment and other services and supports as required. A student on a modified program is assessed in relation to the goals and objectives established in his or her IPP.

Some students may receive regular programming in some subjects, adapted programming in others, and modified programming in other parts of the school day. For example, a secondary student with mild developmental delays may receive regular programming in physical education and work experience, programming in language arts and mathematics that is adapted by providing age-appropriate content but elementary skill objectives, and modified programming in order to acquire personal life skills that are not part of the graded curriculum.

### **Additional Information**

The special education literature does not use the terms *adapted* and *modified* in a consistent manner that distinguishes the two. Some authors consider the terms *adapted*, *modified* and *accommodated* to be synonymous. Alberta Education has adopted the definitions for *adapted* and *modified* programming contained in *Standards* for use in the provincial school system.

## **Specialized Assessment**

With the informed consent of a parent, a school board, regional authority or designated special education private school makes a referral for specialized assessment when it has insufficient or conflicting information regarding a student to enable the board, regional authority or designated special education private school to develop effective programming, determine diagnosis or eligibility, or to make a placement decision for the student.

### **Requirements from Standards**

4. *School boards must:*
  - a. *have written procedures for referral of students requiring specialized assessment*
  - b. *base referrals on a variety of indicators such as:*
    - *screening procedures*
    - *teacher assessment and observation*
    - *parent information*
    - *previous assessments*
  - c. *obtain parents' written informed consent for specialized assessment or referral*
  - d. *use qualified professionals to conduct specialized assessments, interpret results, and provide program recommendations to parents, teachers and others involved with students' programming*
  - e. *work collaboratively, when appropriately, with other service providers and/or appropriate professionals to complete the specialized assessments*
  - f. *complete, when required, specialized assessments within a reasonable time (recommended guideline is within eight weeks unless there are extenuating circumstances) from the date of written referral including completion of a written report*
  - g. *follow the expectations outlined in Alberta Learning's Standards for Psycho-educational Assessment and by the standards and guidelines set by professional organizations for their members. (p. 7)*

### **Definitions**

*"Specialized assessment" means individualized measurement across a variety of domains for the purpose of developing and providing individualized programming for students. Specialized assessment includes assessment of intellectual abilities, academic performance, emotional and behavioural development and physical development relevant to students' educational performance. (p. 5)*

### **Explanation of Requirements**

Specialized assessment is individually administered by a professional who has expertise and training in assessing specific conditions or characteristics. Some of these professionals are non-educators with expertise in medicine, psychology and health-related fields

such as speech-language pathology, while others are educators with expertise in the education of students with a particular exceptionality, such as a visual disability or autism. Specialized assessment may be completed in the school or off-site.

Informed parental consent is required to refer a student for a specialized assessment. Specialized assessment may provide the information needed to place a special education code on the student record.

Specialists use a range of informal and formal techniques, specific to the discipline, to make their assessment of an individual student. These measures can include standardized tests that require specialized training to use as these tests are more complex to administer, score and interpret than those used in the classroom.

Use of standardized tests classified as Level B or C is considered to be a specialized assessment and informed parental consent is required even if the Level B or C tests are administered by a school staff member with appropriate qualifications.

Registered psychologists are responsible for the administration, scoring and interpretation of Level C tests. With appropriate training, and working under the supervision of a registered psychologist, others may administer and score these tests. In these cases, the signature of the registered psychologist indicates that the registered psychologist accepts responsibility for the administration, scoring and interpretation of the measures used and the contents of the written report.

### Additional Information

*Standards for Psycho-educational Assessment* (1994) includes a section on competence to administer assessments that provides guidance to school authorities. It says in part:

*Standard: Psycho-educational assessments are conducted by persons with the appropriate qualifications.* (p. 11)

*Competence for psycho-educational assessment involves having the training, experience and knowledge necessary to:*

- *select and evaluate psycho-educational tests*
- *administer psycho-educational tests*
- *correctly interpret assessment results*
- *effectively integrate assessment results with other relevant information*
- *understand developmental milestones and characteristics of students*

*Competence requires that:*

- *qualifications and standards established in professional fields have been met*
- *minimum qualifications for test administration have been met as specified in published manuals*
- *minimum qualifications for test interpretation have been met as specified by professional organizations and by independent test evaluators*
- *individuals work only within their areas of training and experience* (pp. 11–12)

*Principles for Fair Student Assessment Practices for Education in Canada* (1993) includes a section on assessments produced external to the classroom. It states, in part:

- *Users should select assessment methods that have been developed to be as fair as possible for students who have different backgrounds or special needs.* (p. 14)
- *The students being assessed and, where applicable, their parents/guardians should be provided with complete information presented in an understandable way.* (p. 19)

### Placement

Sometimes in special education the terms *placement*, *program* and *programming* may be confused. The ways in which students may receive their schooling have changed over time and legislation and common usage may not have reflected these changes.

*Special education programming* is used to describe the individually designed instruction, services and supports planned to enhance a student's learning in any setting. In recent years, the term special education *programming* has been preferred to special education *program* to reflect the diverse settings and ways in which instruction is provided.

The *School Act* states:

- 47(3) *Before a board places a student in a special education program it shall*
- consult with the parent of that student, and*
  - where appropriate, consult with the student.*

### Requirements from Standards

10. *School boards must:*
- ensure that educating students with special education needs in inclusive settings in neighbourhood or local schools shall be the first placement option considered by school boards, in consultation with parents, school staff and, when appropriate, the student*
  - determine the most enabling placement in a manner consistent with provincial special education policies, in consultation with parents, and based on current assessment data.* (p. 10)

## Definitions

*“Inclusive setting/inclusion” means specially designed instruction and support for students with special education needs in regular classrooms and neighbourhood schools. (p. 3)*

*“Placement” means the setting in which the special education programming or service is delivered to students. (p. 5)*

## Explanation of Requirements

For the purpose of this document, *placement* is a setting. A placement may be:

- short-term or long-term
- for part or all of the school day
- in a regular classroom setting or in a special education class
- in a jurisdiction or external to it
- in a school or at home or in an institution.

Some settings may congregate students with particular learning characteristics or may provide a particular programming emphasis. These settings may accept any student who chooses to attend, or may have entrance requirements which must be met before a student is admitted.

Section 45(2) of the *School Act* gives boards the authority to direct enrolled and resident students to attend a particular school.

If the parent objects to the board's placement decision, the student shall attend the school to which the student has been directed during the appeal process and during any subsequent procedures until the issue has been resolved.

## Appeals

### Requirements from Standards

16. School boards must:
- a. have written procedures for timely, fair and open dispute resolution and appeals
  - b. establish written procedures to hear appeals from parents or, where applicable, students regarding decisions that significantly affect the education of students with special education needs
  - c. make every reasonable effort at the school and jurisdiction level to resolve concerns collaboratively with parents
  - d. advise parents of their right to make a formal appeal of decisions regarding the special education needs of their children, and inform them of the appeal procedures of the board
  - e. advise parents of their right to request that the Minister of Learning review the board's decision if they are not satisfied with the decision. (Note – does not apply to designated special education private schools) (p. 14)

### Explanation of Requirements

The appeal process and Ministerial Review are separate procedures designed to provide due process to parents.

Parents wanting to appeal decisions affecting their children within a jurisdiction or regional authority should consult and follow the board's policy manual and procedures.

A parent can appeal any decision made by an employee of the board within the jurisdiction or regional authority, subject to limitations based on reasonableness in each circumstance. An appeal of a decision is a request that the decision be overturned by an individual or group designated within the district to hear appeals. This may be the supervisor of the person making the decision, an administrator, or a committee of the board.

The best educational interest of the student must be the principal consideration for decision making and programming.

Not all board decisions are subject to review by the Minister. Parents can ask that a board or regional authority decision be reviewed by the Minister if the issue is included under Section 124 of the *School Act*, which states that the Minister may review decisions that relate to:

- (a) the placement of a student in a special education program,
- (b) a matter referred to in section 10 (language of Instruction - French),
- (c) a home education program,
- (d) the expulsion of a student, or
- (e) the amount and payment of fees or costs.

In each case, the Minister has the discretion to determine whether or not a review will be undertaken.

The review by the Minister considers the process used by the board or regional authority, as well as the decision:

- the board or regional authority's compliance with the requirements of the *School Act*, Alberta Education regulations and provincial and local policies with respect to the issue
- the fairness of the process, including the timelines, followed by the board or regional authority in hearing an appeal under Section 123 of the *School Act*
- the educational needs of the student and the appropriateness of the decision in the circumstances.

## Special Education Codes

*Standards for Special Education, Amended June 2004*, by design, makes no reference to Alberta Education Student Information Systems (SIS) codes. SIS requires that school authorities registering students include a range of relevant information by using designated codes for such things as enrollment type, grants, grades, resident jurisdiction, and special education categories.

The use of codes is an administrative convention used by the Student Information System to collect information from school jurisdictions and private schools on the number and distribution of students with various characteristics across the province.

Alberta Education's *Special Education Coding Criteria* must be met before a student is identified. Parents should be informed when a student has a designated special education code, but the "special education coding" does not require parental consent.

*Standards* applies to any student with special education needs, whether or not the student's record contains a special education code. If the province had no special education codes, *Standards* would still apply.

### Additional Information

Information on SIS codes can be found in the *Student Information Systems User Guide*, and in other provincial publications.