

MORENO VALLEY HIGH SCHOOL SPECIAL EDUCATION MANUAL

REVISED NOVEMBER 1, 2005
SECOND REVISION DECEMBER 13, 2005

I. PURPOSE

The MVHS Special Education Manual has the following purposes:

- A. To guide the MVHS Special Education Program so that services are provided to students with disabilities and gifted students in a manner consistent with Federal and State laws and regulations, as well as the educational values set forth in the MVHS Charter.
- B. To serve as a vehicle of communication between families, MVHS faculty and staff, school district, state and agency personnel regarding local protections and services for students with disabilities.

II. IN GENERAL

The Moreno Valley High school Special Education Policy is congruent with both the New Mexico State Board of Education's Special Education Regulations, 6.31.2 NMAC, the Standards for Excellence, 6.30.2 NMAC, Non-Regulatory Guidance IDEA 2004 (issued August 1, 2005), and the federal Individuals with Disabilities Education Act 2004 (IDEA), 20 U.S.C section 1414, the No Child Left Behind Act of 2001, 20 U.S.C. section 6301 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794 et seq., and the Family Educational Rights and Privacy Act, 20 U.S.C. section 1232 et seq. MVHS has aligned this manual with the Technical Evaluation Assessment Manual, published in August 2005 by the New Mexico PED.

The applicable New Mexico State laws establish a structure in which a charter school is semi-autonomous while functioning under the overall supervision of its local school board. Under IDEA's classification, MVHS is therefore a public school that is part of a Local Educational Agency (LEA), and not a LEA unto itself.

The MVHS Special Education Manual specifically reflects 34 C.F.R. 300.241 (Treatment of Charter Schools and their students), and section

300.312 (Students with disabilities in public charter schools). Under this law, MVHS understands that its LEA shall provide IDEA Part B funds, insure that MVHS students with disabilities are properly served, and file sufficient information with the New Mexico Public Education Department to demonstrate that the requirements of the IDEA and all rules regarding Charter Schools are met.

All students with disabilities attending MVHS and their parents retain all rights under the IDEA. MVHS is primarily responsible for determining and delivering needed services to its students with disabilities, and for compliance with all laws and regulations. However, the Cimarron School District remains secondarily responsible if MVHS should fail to perform one or more of its IDEA obligations.

Any student with disabilities who otherwise qualifies for admission to MVHS will not be denied admission, services or benefits because of his/her disability or exceptionality, or need for special education and related services.

MVHS shares the philosophy and purpose of the stated intent of IDEA 2004. MVHS believes that all students, including those with disabilities, should receive the educational tools they need to lead productive and independent adult lives. To this end, the Governing Council, staff and faculty of MVHS are dedicated to whole-school approaches that support all students. Furthermore, the same high expectations for achievement apply to all MVHS students, including those with disabilities.

Please note that in the Manual, the words “parent” or “parents” means “a parent or legal guardian,” and includes grandparents, stepparents, other relatives, or foster parents.

III. CHILD IDENTIFICATION

In compliance with 6.31.2.10 NMAC and 6.30.2 NMAC MVHS shall conduct activities to locate and evaluate children who are in need of special education and related services.

A. **Child Find**

MVHS will conduct Child Find activities in coordination with the Cimarron School District by conducting public awareness programs and notifying the public of the availability of special education testing and other services at MVHS. MVHS shall assist in identifying unique populations, such as homeless children, migrant children or home-schooled children, and shall make appropriate efforts to inform them of special education services at MVHS.

B. General Screening

MVHS will conduct general screening as part of its Educational Plan for Success (EPSS) and Student Assistance Team process to identify student needs in all educational and related areas, including potential needs for special education and related services. MVHS follows the SAT guidelines as set out in the New Mexico PED SAT Handbook.

C. Request for Initial Evaluation

Parents, MVHS faculty, a Student Assistance Team (SAT) or the School District (Local Education Agency) may request a screening or initial evaluation.

IV. EVALUATIONS

An evaluation must be completed and an eligibility determination made by the Multi-Disciplinary Team before any student can receive special education services.

A. Determining the Need for an Evaluation.

MVHS will identify those students in need of an evaluation through screening, review of various records and parent information. The information shall include:

- 1 The results of screening,
- 2 Reports from outside agencies,
- 3 A statement of language proficiency and dominance,
- 4 A case history from the parents,
- 5 A vision and hearing screening,
- 6 An informal observation of the student,
- 7 Medical information when appropriate.

B. Evaluations in General

When a student has been identified as needing an evaluation, MVHS shall obtain the services of a contract diagnostic agency or diagnostician.

Evaluations will take place within 60 days. Evaluations will be conducted at no cost to parents in compliance with 34 CFR sections 300.532-300.535.

The evaluation will include any and all assessments that are deemed necessary and appropriate to a child's individual situation in all areas of suspected disability. Evaluations will be conducted in such a manner so as not to be discriminatory on a racial or cultural basis and will be administered in the child's native language or

other mode of communication, unless it is clearly not feasible to do so.

C. Evaluation Files Will Contain:

1. The Parent notification referral;
2. Parent Consent for Evaluation;
3. Parent perception of problems and interventions;
4. A summary of the student's attendance history;
5. A statement regarding any cultural, linguistic, environmental or socio-economic factors impacting the student's ability to gain from his/her educational experience;
6. A statement regarding any cultural, linguistic, environmental or socio-economic factors impacting the student's test performance;
7. An observation of test behavior;
8. An Evaluation Report, which conforms to diagnostic standards;
9. A statement indicating the need for specialized instruction;
10. A recommendation for general teaching or environmental strategies;
11. A recommendation for specific general education modifications;
12. Notification of a Multi-Disciplinary Team sent prior to a MDT meeting;
13. Documentation of MDT determination of eligibility;
14. Current IEP, if any;
15. Current Evaluation;
16. Transition Plan.

D. Independent Evaluations

Parents who disagree with evaluation results and/or interpretations have the right to obtain an independent educational evaluation of the child at public expense.

E.. Re-evaluations

Re-evaluations will be conducted no less than once every three years.

Re-evaluations may be conducted at the request of the student's parent or legal guardian, at any time further information will benefit the student's educational program.

V. ELIGIBILITY DETERMINATIONS

A. Current MVHS students

Please note that MVHS students who are referred by a Student Assistance Team (SAT) for Special Education eligibility determination will have received Tier One and Tier Two instruction

and interventions before referral. The SAT will submit a complete file prior to the request for screening or initial evaluation as required by 6.13.2.109 (C) NMAC 2005.

Upon completing the administration of tests and other evaluations, the Multi-Disciplinary Team, a group of qualified professionals and the parent/guardian of the student, will determine if the student is a student with a disability and qualified for special education services, as defined in 34 CFR Sec. 300.7 and Paragraph B (1) of 6.31.2.7 NMAC. The student's disability must adversely affect the student's academic performance. This determination shall be made following the procedures set out 34 CFR Secs. 300.534 - 300.535 and any other SBE rules and regulations. The Eligibility Determination shall include a statement regarding the specific educational needs of the student.

B. 504 Plans

If a student has a disability but the disability does not adversely affect educational performance, the student will not be eligible for special education services under IDEA, but may be eligible for protections under Section 504 of the Rehabilitation Act. To be eligible, the student must have a physical or mental impairment that substantially limits at least one major life activity. Major life activities include walking, seeing, hearing, speaking, breathing, sitting, standing, learning, reading, writing, performing math calculations, working, caring for oneself, or performing mentioned tasks. Under Section 504 the student with a disability may receive accommodations and modifications. A parent may request a 504 Plan, or the IEP Team or SAT may recommend one.

C. Transfers:

In the case of a student with a disability who transfers from another school district, either in New Mexico or from another State, to MVHS within the same academic year, and who has an IEP, MVHS shall provide that student with special education services comparable to those described in the previously held IEP, in consultation with the parents/guardians, until MVHS either adopts that IEP or develops a new IEP.

D. Change of Eligibility

Before a student who has had an IEP can be found to be ineligible for special education services, MVHS will have the student reevaluated, and will convene a meeting with the student, the student's parents/guardians and all necessary professional therapists and teachers, as appropriate, to discuss the student's progress and subsequent program. If a student's eligibility for

special education is terminated, MVHS shall provide the student with a summary of the student's academic achievement and functional performance, and recommendations on how to assist the student in meeting the student's postsecondary goals.

A student is no longer eligible for Special Education Services upon his/her twenty-second birthday, or upon graduation.

E. Special Rule Regarding Eligibility

If after evaluation procedures, the Multi-Disciplinary Team and/or IEP Team determine that the student's academic delays are due to a lack of teaching in reading or math, or due to limited English proficiency, that student will not be eligible for Special Education services.

F. Rule Regarding Medication.

No student will be required to obtain a prescription for a medication covered by the Controlled Substances Act as a condition of attending school, or receiving an evaluation, or for eligibility for special education services.

VI PLACEMENTS

A. In General

After a student is determined to be eligible for special education services, a determination of the student's placement will be made. MVHS insures that each student's educational placement and services will be provided in the least restrictive environment.

B. Placement at MVHS

As stated in 6.31.2 (2)(c) NMAC, the presumption is that the student will be educated in the school that he or she would attend if non-disabled, unless the student's IEP requires some other arrangement. Since MVHS is a Charter school providing school choice for students from Cimarron and other school districts, MVHS will provide placement for a student with disabilities unless the student's IEP clearly requires some other arrangement.

C. Placement Files must include:

1. Documentation of any special factors affecting school placement,
2. The student's IEP goals and objective aligned to state standards and written in specific, measurable terms, including references to the measurement tool or tools to be used to determine progress.
3. Clear justification for the program placement.

D. Other Placements

If a student's IEP requires another placement, a student may be placed in an appropriate private school or facility in order to fulfill the requirement of the student's IEP, at no cost to the student's parents.

E. Private Schools

If a parent believes that MVHS has failed to provide a free appropriate public education to his or her son or daughter with a disability, and independently places that student with a disability in a private school, MVHS and the Local Education Agency may not be responsible for the student's tuition unless the parent has followed the State and Federal guidelines governing this situation. Briefly, a parent must first notify MVHS of the parent's concerns, and of the parent's intention to enroll the student in a private school at public expense. Please refer to State and Federal regulations that specifically address this situation.

F. Interim Placements

In the case of a student who has violated the MVHS Student Disciplinary Code, an appropriate interim placement will be determined by the student's IEP Team, as specified in Section VIII of this Manual.

G. Placements during Due Process

During the pendency of any conflict resolution meeting or hearing, a student will remain in their current placement, unless otherwise determined by the IEP Team or a Hearing Officer.

VII. INDIVIDUALIZED EDUCATION PROGRAMS (IEP)

A. Definition

An "individualized education program" or "IEP" means a written statement or educational plan for a student with a disability that is developed, implemented, and revised in compliance with State and Federal law. This program is designed by the IEP Team, which consists of the Special Education teacher, general education teachers, parents/guardians, other professionals with expertise in appropriate areas, and the student, if possible.

B Responsibility for IEP:

MVHS is responsible for developing and implementing an IEP for each student in need of special education services.

MVHS insures that an IEP is developed and implemented for each enrolled student in need of special education who is placed in or referred to a private school by MVHS and the LEA; or who is enrolled in a parochial or other private school, or home

school, and who receives special education or related services from MVHS.

B. When IEPs Must Be in Effect:

1. At the beginning of each school year MVHS will have an IEP in effect for each student with a disability who is receiving special education from MVHS.
2. An IEP will be in effect before special education and related services are provided to a student.
3. An IEP will be implemented as soon as possible following the IEP meetings, except when the meetings occur during the summer or a vacation period, or where there are circumstances which require a short delay. There will be no undue delay in providing special education and related services to a student.

D. Meetings

1. In General

MVHS is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising a student's IEP. A meeting to develop an IEP will be held within 30 calendar days of a determination that the student needs special education and related services.

A meeting to review a student's IEP will be held each year, or anytime there is new information that would substantially alter the student's educational plan. However, if MVHS and the parents agree, an amendment may be made to the IEP in writing and without the requirement of a meeting.

2. Participants

The IEP Team shall consist of the student, if appropriate; one or both of the student's parents/guardians; the MVHS Special Education teacher; at least one regular education teacher; a person who can interpret the educational implications of test results; a representative of the local education agency; any therapists or other service providers, or transition services personnel as appropriate; and any other advocate or support person the parent chooses to invite.

An IEP Team Member may be excused from attendance at a meeting if there will be no change in the student's goals that that team member would be responsible for, and if the parents and the LEA consents to the excusal. Members who do not attend may provide written input prior to the meeting.

3. Special Provisions for Parents

MVHS will do its best to insure that one or both of the parents of the student with a disability can be present at each meeting, or are afforded the opportunity to participate. MVHS will attempt to schedule meetings at a mutually agreed on time and place.

MVHS will provide written notice to the parents early enough to ensure they will be able to attend. The written notice will specify the purpose, time and location of the meeting, and who will be in attendance.

If the parents can not attend, MVHS will offer other means of attendance, such as conference telephone calls.

If necessary, MVHS will ensure that there will be an appropriate interpreter at a meeting so that the parents and/or student can understand what is being said at the meeting.

MVHS will provide a copy of the Parent's Rights and Responsibilities to parents, and get a signed acknowledgment of receipt of the Rights from the student's parent.

MVHS will provide a copy of all evaluation results to the parents before the meeting.

MVHS will provide a copy of the completed IEP to the parent.

4. If a Parent Will Not Attend

A meeting may be conducted without a parent/guardian present if MVHS is unable to convince the parents they should attend. In this case, MVHS will maintain a detailed record of all attempts to arrange a mutually agreed upon time and place.

MVHS will institute procedures to protect the rights of student when the student' parents are not known.

E. CONTENT OF THE IEP

1. In General:

The IEP Team will take the following into consideration: the student's strengths; the parent's concerns and desires; the student's concerns and desires; the evaluation results; the student's academic, developmental and functional needs; the recommendations of regular and special education teachers; input from therapists and other professionals; and any special social, behavioral or communication factors.

2. The IEP for each student will include:

- a. A statement of the student's present levels of educational performance which accurately describes the impact of the student's disability on the student's performance in the general education curriculum.
- b. A statement of measurable annual goals, including academic and functional goals designed to meet the student's needs that result from the student's disability and which enable the student to be involved in and make progress in the general education curriculum;
- c. A statement of how the student's progress will be measured, and when progress reports will be issued;
- d. A statement of special education and related services and supplementary aids and services, based on peer-reviewed research, if possible;
- e. A statement of program modifications and supports to be provided to the student in the Least Restrictive Environment; and the extent to which the student will participate in the general education curriculum;
- f. An explanation of the extent, if any, to which student will not participate with non-disabled students in the regular classroom;
- g. A statement of accommodations the student needs when participating in district-wide or statewide assessments or, in the event the student must take an

alternate assessment, a statement as to why the alternate assessment is necessary in accordance with New Mexico law and guidelines.

According to 6.31.2.11 (E) NMAC, students may participate in alternate assessments only if it can be documented that the student's past and present levels of performance in multiple settings indicate the presence of a significant cognitive disability; the student needs intensive, pervasive or extensive levels of support in home, school and community settings; and the student's current cognitive and adaptive skills and performance levels require direct instruction to accomplish the acquisition, maintenance and generalization of skills in multiple settings.

h. A statement regarding the extent to which the student will be subject to the standard behavioral policies of the school, and if individualized behavioral techniques must be used.

i. The projected date for the beginning of services, and the projected frequency, location and duration of those services.

j. A statement that the student and parents were informed that the student's rights under IDEA will transfer to the student upon the age of majority. MVHS will place this statement in the IEP no later than one year before the student becomes 18. If the parents follow legal procedures to maintain full or partial guardianship, this information will be included in the student's file.

k. A signature page. Each participant present during the IEP meeting will sign, date and indicate their position.

l. When the student is 16, a statement of appropriate measurable postsecondary goals related to training, education, employment and, if appropriate, independent living skills; a plan to provide transition services, including course of study needed to help p the student reach those goals; and a graduation plan.

3. Transition Plans

A transition plan will be developed for each MVHS student who receives special education services at MVHS by their fourteenth birthday.

A transition plan is a document that sets out a coordinated and measurable set of goals designed to improve academic and functional skills of the student to facilitate the student's movement from MVHS to post-school activities. The transition plan is based on the individual student's needs, and takes into account the student's strengths, preferences and interests. It may include instruction, related services, community experiences, high-stakes test preparation, acquisition of functional skills, job shadowing or training, social skills, and vocational interest and skills evaluations.

As part of a student's graduation plan, the IEP Team may choose from four graduation options: a standard MVHS diploma, which requires a Senior Portfolio or Project; a standard New Mexico diploma; a Career Readiness Diploma; and an Ability Diploma.

No MVHS student fulfilling one of the graduation pathway requirements will be excluded from participation in graduation activities and ceremonies.

Students with disabilities who have IEP's have a right to special education services until graduation or the age of 22. After that, persons with disabilities have no right to services, but must prove their eligibility to community programs and services. In order to help students and their families with their transition plans, the Special Education Director will maintain up-to-date information about post high-school community services and their requirements and will share them with students and their families, as appropriate. The Special Education Director will also coordinate with the School Counselor regarding the nature, location and currency of all information regarding post-secondary training opportunities.

If appropriate, the Special Education Director may request that representatives from community programs be present at a student's IEP meeting to assist with the transition plan.

VIII.PROGRAM DELIVERY

A. FAPE

MVHS will provide a free appropriate public education to all students with disabilities.

B. Program Duration

Students with disabilities have a right to attend MVHS until the age of twenty-two, if necessary.

C. Comparable Education

MVHS insures that students with disabilities will have available to them the same variety of educational programs and services that are available to students without disabilities within the jurisdiction of MVHS.

D. Equal Opportunity to Participate

MVHS will provide necessary supports and assistance to students with disabilities so they have an equal opportunity for participation in nonacademic and extracurricular activities. These may include athletics, field trips, clubs, volunteer activities and any service or school-sponsored activity.

E. Physical Education

Physical Education is an integral part of the MVHS curriculum. Students with disabilities shall receive physical education in the general curriculum with students without disabilities, with supports if necessary. If a student with a disability requires a specially designed physical education program, MVHS will provide the service directly or through other public or private programs.

F. Paideia Program

Students with disabilities will participate in the Paideia program at MVHS including Seminar, Coaching, Didactic learning, and Advisory unless otherwise specified in a student's IEP.

G. Length of School Day

MVHS assures that the length of the school day for students who receive special education will be equivalent to that of all other students.

H Extended School Year

MVHS will make extended school year services available to those students with disabilities who meet eligibility criteria.

The purpose of an extended school year is to prevent or slow severe skill regression caused by an interruption of special education services during extended periods when school is not in session. The need for extended school year services is based on evidence that the student tends to lose skills when school is not in session, making advancement difficult or impossible.

When a multidisciplinary IEP team determines that a student will need extended school year services, the service will be offered at no cost to the student's family.

I. Least Restrictive Environment

MVHS establishes and implements procedures that meet the requirement of Least Restrictive Environment. To the maximum extent possible, MVHS students with disabilities will be educated with students without disabilities. MVHS insures that special classes, separate schooling or other removal of students with disabilities from the general education environment will occur only when the nature and severity of the disability is such that education in general classes, even when supplementary aides and supports are used, cannot be achieved satisfactorily.

J. Continuum of Service Delivery

MVHS insures that a continuum of alternative service delivery models will be available to meet the needs of students with disabilities for special education and related services.

K. Individualized Education Plan

MVHS will insure that the IEP team creates a plan individualized to the student's needs, and will execute that plan. Special education and related services, and supplementary aids and services, will be based upon peer-reviewed research, to the extent practicable.

L. Teacher Qualifications

MVHS will insure that any Special Education teacher employed by MVHS will be highly qualified, and that all related services personnel and paraprofessionals are certified and licensed according New Mexico standards.

MVHS will insure that all general education teachers will have ongoing professional training for the issues and teaching methods specific to students with special needs,

and specific training and support for issues and teaching methods specific to particular students at MVHS.

IX. BEHAVIOR AND DISCIPLINE

A. Comparable Disciplinary Rules

Unless otherwise stipulated by law, a student with an IEP shall be subject to the same disciplinary rules and requirements as other MVHS students.

B. Functional Behavioral Assessments

When creating or revising an IEP, the IEP Team will consider whether a functional behavioral assessment is necessary, or if other behavioral strategies will be necessary to optimize student learning.

If at any time a student with a disability whose behavior impedes the student's learning or that of others, MVHS will convene a meeting to determine strategies to address that behavior, or to contract for a functional behavioral assessment.

C. Suspension or Expulsion

If a student with a disability subject to the standard MVHS disciplinary code commits a transgression that requires suspension or expulsion, MVHS shall insure that that student continues to receive a free appropriate public education, and related services. If appropriate, the student will receive a functional behavioral assessment, or other psycho-educational evaluation.

D. Qualifications of Evaluator

If at any stage of a student's educational career it is determined that a psycho-evaluation is necessary, MVHS will insure that the evaluator has expertise in that student's particular disability.

E. Violations of Disciplinary Code

Except as noted in subsections J and K below, MVHS will not remove a student with a disability who violates the MVHS disciplinary code from his/her current placement to another interim alternative educational setting, or suspend that student for more than ten school days.

F. Manifestation Determination

Within ten school days of any decision to change the placement of a student with a disability because of a violation of the MVHS disciplinary code, the IEP Team shall convene a Manifestation Determination meeting. The IEP Team will review all relevant information, including information provided by the parents, about the student to determine if the negative behavior was caused by the student's disability. The IEP Team will determine whether the negative behavior was caused by, or had a direct and substantial relationship to the student's disability and/or the negative behavior in question was the direct result of the school's failure to implement the IEP.

If the IEP Team determines that the student's negative behavior was a manifestation of the student's disability, MVHS will contract for a functional behavioral assessment of that student, and implement a behavioral plan based on that assessment.

In the situation where a behavioral plan is already in place, and a student's negative behavior continues, MVHS will review the behavioral interventional plan and modify it to address the behavior.

If the IEP Team determines that the student's negative behavior was not a manifestation of the student's disability, the same disciplinary procedures applicable to children without disabilities will be used.

G. Special Disciplinary Circumstances

MVHS may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is a manifestation of the student's disability if the student:

1. Carries or possesses a weapon to or at school or any school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance on school premises or at a school function, except as noted in section L.

3. Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function.

H. Prescription Drug Exception

If a MVHS student with a disability has been prescribed a controlled substance by a doctor, and the student has possession of the medication at school this is not an illegal possession or use. However, a rule in the MVHS Student Handbook stipulates that all prescription or over-the-counter medications used by students be stored in the Director's Office during school hours.

I. Interim Educational Setting

When a student with a disability needs to be removed from the regular placement to an interim alternative educational setting, the IEP Team shall determine that setting.

J. Reporting of Crimes

MVHS may at its discretion report a crime committed by a student with a disability to the appropriate authorities. If MVHS does so, MVHS will insure that the authorities receive copies of the special education and disciplinary records of the student.

K. Disciplinary Provisions for Students in IEP Process

An MVHS student who has not yet been found eligible for special education will receive the same treatment in disciplinary matters as those who have IEP's if the parent of the student has expressed concern in writing that the student may need special education, or if that parent has requested an evaluation; or if the student's teacher has expressed specific concerns about the student's pattern of behavior.

L. Due Process in Disciplinary Issues

If a parent of a student with a disability disagrees with any decision regarding placement or the manifestation determination, that parent may request a hearing.

M. Determination of New Placement

The IEP Team may determine that MVHS is unable to meet the needs of the student and refer the student to

another placement. MVHS will follow the procedures as set out in 6.31.2.J - L NMAC and all relevant Federal rules.

X. GIFTED STUDENTS

A. In General.

MVHS will provide services to all students that qualify as gifted, as defined in 6.31.2.12 NMAC and Sec. 22-1-1(O) NMSA 1978.

Assuming appropriate evaluations, a student may be determined to be both gifted and a student with a disability and be entitled to a free appropriate public education for both reasons.

MVHS may offer gifted programs and services to students who fail to meet State eligibility criteria. However, the State will only provide funds for PED-approved gifted programs for those students who meet the criteria established by the State.

All provisions regarding the initiation and evaluation of IEP's, procedural safeguards and rights apply to gifted students. However, provisions that specify special disciplinary protections and placements to students with disabilities do not apply to gifted students.

B. Definition

A "gifted child" or "gifted student" is a school-age person whose intellectual ability paired with subject-matter aptitude/achievement, creativity/divergent thinking, or problem-solving/critical thinking meets the eligibility criteria determined by the State.

C. Evaluation Procedures

A student's parents, the student, or MVHS teacher or counselor, or SAT may request an evaluation to determine if a student is gifted and in need of special education services to met the student's educational needs.

The Special Education Director will contract with a contract testing service or otherwise administer the testing instruments required by law. The Director will also be responsible for gathering all information required to make an evaluation.

An IEP Team will be created. One member should be a person knowledgeable about gifted programs and the needs of gifted students. In all other ways the constituents of the IEP Team will be equivalent to an IEP Team created for a student with a disability.

The IEP Team will consider documentation and data from multiple sources including:

1. Standardized measures.
2. Information regarding the student's activities from other sources, such as collections of work, audio/visual tapes, judgment of work by qualified individuals knowledgeable about the student's performance (e.g. artists, musicians, scientists, etc.), interviews and observations.
3. An accurate assessment of a student's ability may be affected by factors including cultural background, linguistic background, socioeconomic status, or disability conditions. The impact of these facts on the evaluation shall be documented and carefully considered when determining whether a student is gifted.
4. The student's ability in all four areas specified in the above definition will be tested and considered.

D Eligibility

A MVHS Student will be determined to be gifted by the IEP Team if any of the following are true:

1. The student shows a score of two standard deviations above the mean on a properly administered measure of intellectual ability and,
2. The student meets eligibility criteria in one of the other three areas:
 - a... The student shows a superior score on a total subject area section of a standardized

measure, or as documented from other sources.

b. Outstanding performance on a test of creativity/divergent thinking, or as documented from other sources,

c. An outstanding performance on a test of problem-solving/critical thinking, or as documented from other sources.

6. If the IEP Team determines that a student is gifted, the IEP Team will create and implement an IEP that meets the student's needs.

E. Gifted Program Advisory Committees

MVHS will create one or more advisory committees, consisting of parents, community members, students and school staff members. The membership of the committee(s) will reflect the diversity of the community. The committee will regularly review the goals and priorities of the MVHS Gifted Program, provide information regarding the special situations and needs of gifted persons, and advocate for gifted students, especially those who have been under-represented in gifted services due cultural or socioeconomic backgrounds, or disability.

XI. STUDENT RECORDS

A. Transfers

Whenever a student from MVHS transfers to another school, MVHS will insure that all records, including IEPs will be forwarded promptly upon proper request by the parents or the receiving school.

B. Confidentiality of Personally Identifiable Information

MVHS insures that the following practices and policies regarding personally identifiable information are in place:

1. Parental consent is obtained before personally identifiable information is disclosed to anyone other than officials of public education agencies collecting or using the information'
2. MVHS is required by the NCLB Act to disclose information regarding MVHS

students to the Pentagon for use in recruiting students into the Armed Forces.

3. MVHS protects the confidentiality of student records in the collection, storage, disclosure and destruction stages.
4. One official at MVHS is responsible for insuring the confidentiality of student records.
5. All persons collecting or using student records receive training or instruction regarding FERPA.
5. MVHS maintains for public inspection a current listing of the names and positions of those MVHS employees who have access to student records.

B. Access Rights

MVHS will provide to parents on request a list of the types and locations of educational records collected, maintained or used by MVHS.

MVHS permits parents to inspect and review any educational records relating to their students that are collected, maintained, or used by MVHS. MVHS complies with a request without unnecessary delay and before any meeting regarding an IEP.

MVHS presumes that the parent or parents have the authority to inspect and review records relating to his or her student unless MVHS has been advised otherwise under applicable State laws governing such matters as guardianship, custody, separation and divorce.

The right to inspect and review educational records includes:

1. The right to a response from MVHS to reasonable request for explanations and interpretations of records;
2. The right to request that MVHS provide copies of the records if failure to provide copies would effectively prevent the

parent(s) from exercising the right to inspect and review the records;

3. The right to have a representative of the parent(s) inspect and review the records.

MVHS keeps a record of parties who obtain access to educational records collected, maintained or used (except access by parents and authorized employees of MVHS), including the name of the party, position or credential of the party, the date and purpose access was given.

D. Records on More Than One Student

If any educational record includes information on more than one student, the parents of those students have the right to inspect and review only the information relating to their student or to be informed of that specific information.

E. Fees

MVHS does not charge a fee to search for or retrieve information for parents, nor does it charge a fee for copies of records if failure to provide copies or to pay a fee would effectively prevent parents from their right to inspect and review the records.

F. Amendment of Records At Parent's Request

Parents who believe that information in their student's record is inaccurate or misleading, or that it violates the privacy or other rights of the student, may request in writing that MVHS to amend the information.

MVHS will answer the request in a reasonable period of time following the receipt of the request. If MVHS decides not to amend the information in accordance with the request, MVHS will inform the parents in writing of the refusal and will advise the parents of their right to a hearing.

G. Hearings

Upon written request, MVHS will provide an hearing to parents to challenge information in the educational records of their student to insure that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student.

The hearing will be conducted according to the procedures under the Family Educational Rights and Privacy Act (FERPA), 34 CFR 99 and 6.5.2 NMAC.

If as a result of the hearing, MVHS determines that the information needs to be changed, it will amend the information accordingly and inform the parents in writing. If as a result of the hearing, MVHS decides that the information does not need to be changed, it will inform the parents of their right to place a statement commenting on the information in the student's record. Any explanation placed in the record of the student will be maintained by MVHS as part of the record as long as the student's record is kept by MVHS. If the record of the student is disclosed to any party, the explanation will also be disclosed with the record.

H. Destruction of Records

As a matter of policy, MVHS will destroy a student's records when they are no longer needed to provide educational services to that student. However, the records of a student with a disability may be retained permanently unless the parent of the student or the student at age of majority requests that the record be destroyed. Although destruction of records is the best protection against improper and unauthorized disclosure, the records may someday be needed for other purposes such as to obtain social security benefits or other services.

If MVHS receives a request in writing to destroy the records of a student with a disability, it will give the records to the person making the request. However, MVHS will keep a permanent record of a student's name, address, phone number, attendance, grade transcript, grade level completed and year completed.

I. Notice to Parents

The Special Education Coordinator or designee will provide a written notice to parents fully informing them about the requirements pertaining to the confidentiality of student records and their rights under the law in regard to those records.

XII.CONFLICT MANAGEMENT AND RESOLUTION

A. In General

The Staff of MVHS are committed to establishing and maintaining productive working relationships with the parents of all students at MVHS since we believe that such a relationship contributes to the quality of the student's educational experience. To formalize this commitment, MVHS has established a goal of parental involvement in school activities. Furthermore, MVHS has

established procedures in the Employee Handbook and Student Handbook that provide students and parents a process through which they can address their concerns.

This is no different for students with disabilities. However, in addition to MVHS procedures MVHS abides by the State and Federal regulations regarding dispute resolution in matters pertaining to special education students.

First, as a proactive measure, the Special Education Director at MVHS maintains open and frequent communication with the parents of students with disabilities to discuss ongoing concerns and accomplishments.

Secondly, MVHS insures that it will maintain a continuum of dispute resolution options for parents and students with disabilities. These include Informal Dispute Resolution procedures, Third-Party assisted intervention, and Formal Dispute Resolution options. The Special Education Director will provide a Notice listing the rights of parents to Due Process at every IEP meeting or whenever a parent requests one.

B. Informal Dispute Resolution Procedures

If a disagreement arises between parents and MVHS over a student's IEP or educational program, and it cannot be resolved through an informal conference, either the parents or MVHS may convene a new IEP meeting at any time to attempt to resolve the issues in question.

C. Third-Party Assisted Intervention

1. To resolve a disagreement, the parents and MVHS may elect to meet with a disinterested party who is under contract with Parents Reaching Out or an alternative dispute resolution provider.

2. To resolve a disagreement, the parents and MVHS may choose mediation; in that case the Special Education Bureau of the Public Education Department ensures that mediation is available to parents and schools who request intervention before filing a state-level complaint or a request for a due process hearing. MVHS will honor any parent's request for mediation and will assist in the process of arranging the meeting. MVHS also will inform the parents of the procedures involved in a mediated intervention.

D. Mediation

In compliance with 6.31.2 (b) NMAC, the parents and MVHS will file a mutual request in writing, signed by both parties, and which contains a statement of the matter in dispute and a

description of all attempts to resolve these matters, with the Bureau. The Bureau maintains a list of mediators and will contact MVHS to set up a meeting.

In general:

1. Mediation is voluntary on the part of the parties.
2. The mediation process will not be used to deny or delay a parent's right to a due process hearing.
3. All discussions that occur during the mediation process must be confidential and may not be used in any subsequent due process hearing or civil proceeding.
4. A mediated agreement will be signed by both parties and will be binding and enforceable in any state court or district court of the United States.
5. If the mediated agreement involves IEP issues, the agreement must state that MVHS will convene a meeting to inform the student's service providers of their responsibilities under the new agreement.
6. The mediator will transmit a copy of the written mediation agreement to each party within seven days of the meeting.
- 7.. Each session in the mediation process will be scheduled in a timely manner and held in a location that is convenient to the parties to the dispute.

E. Formal Dispute Resolution

1. Complaint

A State level Complaint may be filed with the Special Education Bureau of the Public Education Department. The Bureau will accept and investigate complaints from organizations or individuals that raise issues covered by state law 6.31.2.13 NMAC. The Complaint must be in writing, submitted to the Special Education Bureau, or the secretary of education in the case of a complaint against the Public Education Department. The Complaint must include a statement that the PED or MVHS has violated an applicable state law or federal law or regulation. It must contain a statement of the facts on which the allegation is based, and a description of any efforts made to resolve the complaint issues with MVHS. The alleged violation must have occurred not more than one year before the parent knew or should have known about the violation. Finally, the complaint must be signed. The requirements of a Complaint are specifically set out in 6.31.2.13 (H) NMAC.

After receipt of a Complaint, the State will offer to hold a preliminary meeting, and IEP meeting or a mediation. The

parents may accept or decline the offer. After an investigation, the Special Education Bureau will issue a written decision that includes findings of fact, conclusions and the reasons for the decision. The decision will be mailed to all parties of the dispute.

According to State law, after a Complaint has been filed the Cimarron School District will offer to convene a Complaint Assistance IEP meeting with the parents to address IEP-related issues. The parents may accept or decline this offer.

2. Due Process Hearing

Parents, their authorized representative, or MVHS may request a due process hearing. A due process hearing is a procedure in which a Hearing Officer hears both sides of an issue and decides the case according to law.

A due process hearing may be requested for relief regarding any issue involving an IEP, including claims for gifted services. However, a Due Process hearing may not be used to hear claims asserting that the Public Education Department should be required to provide direct services to a child, or that the Public Education Department has failed to adequately perform its duty of general supervision over the educational programs for children with disabilities in New Mexico. A Complaint should be filed for those issues.

A request for a hearing must fulfill the legal requirements set out in 6.31.2. (I)(5) NMAC in the request, which should state all relevant facts of the dispute, a statement of the efforts made to resolve the dispute and a proposed resolution, and a request for a Hearing or an Expedited Hearing. The written notice shall be sent to MVHS and to the Special Education Board. Upon receipt, MVHS will send a written response specifically addressing the issues raised in the hearing request. When the Special Education Board receives the request it will appoint a qualified and impartial hearing officer, who will arrange the Hearing time and place. The Hearing will take place according to the rules set out by law.

3. Legal Action

Any party aggrieved by a decision in a Due Process Hearing may file suit in State or Federal court.

XIII.FUNDS

A. Excess Cost

MVHS provides assurance satisfactory to the New Mexico Public Education Department that MVHS will use funds provided under IDEA only for costs which exceed state and local revenue and which are directly attributable to the education of students with disabilities. MVHS annually files an excess cost calculation that is available for review.

B. Non-Supplanting

MVHS provides assurance satisfactory to the New Mexico Public Education Department that MVHS uses funds provided under IDEA to supplement and, to the extent practicable, increase the level of state and local funds expended for the education of students with disabilities, and in no case to supplant those state and local funds.

To meet this requirement, the total amount or average per capita amount of state and local funds budgeted by MVHS for current fiscal year expenditures for the education of students with disabilities will be at least equal to the total amount or average per capita amount of state and local school funds actually expended for the education of students with disabilities in the most recent preceding fiscal year for which the information is available.

Allowance may be made for decreases in enrollment of students with disabilities and unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities.

MVHS does not use IDEA funds to displace state and local funds for any particular cost. The intent of this requirement is to insure that IDEA funds are used to increase state and local efforts and are not used to take their place.

Compliance with this requirement is judged with this aim in mind. The supplanting requirement is not intended to inhibit better services to students with disabilities. MVHS annually files maintenance of effort calculation that will be available for review.