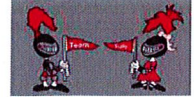


Tully Central School District Special Education Plan

2018-2020

C. Bobbett



TULLY CENTRAL SCHOOL DISTRICT

SPECIAL EDUCATION

DISTRICT PLAN

2018-2020

Presented to the Board of Education
for adoption November 2018
Cristy Bobbett, Director of Student Support Services

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INTRODUCTION

Section 200.2 of the Regulations of the Commissioner of Education mandates that each Board of Education, which receives an apportionment for students with disabilities pursuant to subdivision 19 of Section 3602 of the Education Law, or preschool children with disabilities pursuant to Section 4410 of the Education Law, shall use such apportionments for special education programs and services which are in accordance with the provisions of Part 200.

Each Board of Education that receives such apportionment shall prepare a written plan in regard to special education. The Plan is to be completed by November 1, 1988 and by November every second year thereafter. The present Plan, upon adoption by the Tully Central School Board of Education, shall be on file (personally identifiable student information deleted) in the Special Education District Office and available for public inspection and review by the Commissioner. (8 NYCRR 200.2.C.(3))

The Tully Central School District Plan for Special Education 2018-2020 meets the requirements of the Commissioner. Questions or comments on this plan should be directed to the Director of Student Support Services, or the Board of Education.

The overall effectiveness of the district's special education program is based on setting specific goals, developing action plans to meet those goals, and establishing evaluation criteria to insure that the program is effective.

PURPOSES FOR THIS PLAN

- Serve as the District Plan for the two-year period November 1, 2018 through October 31, 2020 as required by State law as a condition for receiving funding. (8 NYCRR 200.2)
- Provide interested residents and staff of the Tully Central School District an informational document explaining how the District supports children with disabilities.
- Provide a working document upon which to build capacity, identify and improve weaknesses and set priorities for the future.

CONTENTS OF THIS PLAN

- **NATURE AND SCOPE OF SPECIAL EDUCATION PROGRAMS:** describes the special education programs and services currently available to K – 12 students and preschool children with educational disabilities residing in the District. Descriptions of programs provided by the District in terms of group size and composition are included.
- **GRADUATION REQUIREMENTS:** describes graduation requirements involved for completion of school with regards to Diploma types, Credits necessary, Examination requirements, with references for further information pertaining to the multiple pathways to graduation.

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- **SPACE ALLOCATION:** describes policies and practices of the Board of Education to ensure the allocation of appropriate space within the district for special education programs. Appropriate space assists teachers towards meeting the needs of students with educational disabilities, including resident students and students with educational disabilities who attend BOCES programs.
- **ALTERNATIVE FORMAT FOR INSTRUCTIONAL MATERIALS:** a description of how the District intends to ensure that all instructional materials to be used in the schools of the District will be made available in a usable alternative format for each student with a disability at the same time as such instructional materials are available to non-disabled students. (Policy 5410 is included w/in policy section of materials.)
- **BUDGET:** reports figures and expense items from the current school budget that support the special education program
- **IDENTIFICATION RATE OF STUDENTS WITH DISABILITIES:** presents an overview of the numbers of students identified as having educational disabilities that require an IEP.
- **FOCUS ON FULL IMPLEMENTATION OF THE BLUEPRINT FOR IMPROVED RESULTS FOR STUDENTS WITH DISABILITIES TO INCLUDE EFFECTIVE PRACTICES WITH IN THE CONTINUUM OF SPECIAL EDUCATION PROGRAMMING OPPORTUNITIES FOR OUR K-12 POPULATION:** presents a projection of successful continuum options from 2012-2020 by utilizing a variety of approaches. The goal is to optimize use of the full continuum within the Elementary and JSHS buildings to the maximum extent possible and partnering with OCM BOCES when appropriate to ensure development of the whole student.
- **SELF-ASSESSMENT OF TCSD PROGRESS AND SUCCESS IN IMPLEMENTATION OF THE BLUEPRINT FOR IMPROVED RESULTS FOR STUDENTS WITH DISABILITIES:** method/format that will be used to evaluate the extent to which the objectives of the program have been achieved.
- **BOARD OF EDUCATION POLICIES:** provides information about where to locate all BOE policies for the Tully Central School District, including those specific to students with disabilities. Attached policies referring specifically to students with disabilities are also included in this plan.
- **PROCEDURAL SAFEGUARDS NOTICE:** information concerning parents/guardians legal rights under federal and State laws to be informed about and involved in the special education process and to ensure children receive a free and appropriate public education.
- **ATTACHED AT THE END:**
 - Copies of policies related to Students with Disabilities
 - Blueprint for Improved Results for Students with Disabilities
 - Self-Evaluation Tool for Implementation of the Blueprint
 - Procedural Safeguards Notice

NATURE AND SCOPE OF SPECIAL EDUCATION PROGRAMS

School age students and preschool children with disabilities are afforded the full continuum of educational services according to individual need. The educational programs available represent the continuum from regular education to more restrictive special education placements. Programs within the Tully School District currently meet the needs of over 85 % of our students with disabilities within the building the student would normally attend. (This is a 3 point increase since 2016.) This represents a commitment to educating resident students in the Least Restrictive Environment. With our continued efforts toward increasing our co-teach & special class opportunities in house, we are working toward increasing the percentage of students with disabilities that are educated within our two campus buildings.

GENERAL EDUCATION PROGRAMS

Part 100 Regulations of the Commissioner of Education affirms that “Students with educational disabilities are entitled to participate in curricular and extracurricular activities to the extent appropriate to their individual needs,” (8 NYCRR 100.2) and also states that, “students with educational disabilities must have access to the full range of programs and services...to the extent appropriate to their individual needs” (8 NYCRR 100.2). The Tully Central School District provides the following regular education programs and services:

Screening Program: The Tully Central School District is responsible for screening all new entrants and other qualifying students according to the Education Law. One of the purposes of screening is to identify students that might have an educational disability and need more in-depth evaluation to determine if special education services may be required. (8 NYCRR 117.3)

Regular Education Classes: Students with disabilities are mainstreamed into regular education classes to the maximum extent appropriate. This supports a student’s opportunity to earn a Regents or Local Diploma. This also ensures compliance with Least Restrictive Environment regulations. (8 NYCRR 200.1 and 200.6) Currently all special education students served within district-run programs are involved in some mainstreaming that the Committee on Special Education has recommended. Given the unique learning needs of students identified by the CSE, the requirements within the regular classroom may need to be modified to insure that successful mainstreaming takes place. Part 100 requires that, “...instructional techniques and materials must be modified to the appropriate degree to allow students with educational disabilities to meet specific diploma requirements. (8 NYCRR 100.2) Committees on Special Education are required to review at least annually the appropriateness of such modifications.” The Tully CSE states on the IEP which curricular areas need to be modified and which testing modifications/accommodations need to be utilized. Teachers, students, and parents work collaboratively to implement the specific classroom modifications for each area identified by the CSE.

Remedial Programs: Students with disabilities who qualify for remedial programming can be enrolled in AIS (Academic Intervention Services) and/or the district’s RTI (Response to Intervention) based on the recommendation of the remedial program administrator. The CSE will consider the unique needs of each

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student and the cohesiveness of the student's total program when determining if the student will participate in any district remedial program, or receive assistance through the special education program when he/she qualifies for both.

Extracurricular Activities: Students with disabilities are encouraged to participate in appropriate extracurricular activities. This affords each student the opportunity to fully benefit from all educational experiences. The full range of extracurricular activities is open to all students with disabilities who are otherwise qualified to participate.

Guidance Program: The District provides guidance/counseling services to students in grades 7 – 12. Guidance/counseling plans are written for students with disabilities, and school counselors play an active role in planning for the transition to postsecondary career plans. School counselors are also central in working on attendance problems, academic concerns, and behavioral problems.

Speech and Language Improvement Services: Students identified by the District Speech Therapist, who experience communication difficulties (dysfluency, impaired articulation, language or voice disorders) that do not have an educational disability, may receive speech improvement services. The service is focused toward each child's deficit areas in an attempt to correct the speech or language problem before it hinders learning. Children are usually seen one-two times per week for approximately 20 - 30 minutes in small groups. The Speech/Language Therapist in consultation with the classroom teacher and the parent determines dismissal from the program.

Occupational Therapy Improvement Services: Dependent on schedules and availability, students identified by the District's Occupational Therapist, who experience difficulties in fine motor skills or upper body strength and positioning or have sensory issues, may be eligible to receive occupational therapy improvement services. This service is focused on the deficit areas in order to help prevent more significant problems. Children are usually seen one – two times per week for 10-30 minutes in small groups. The Occupational Therapist in consultation with the classroom teacher and parent determines dismissal from services.

Physical Therapy Improvement Services: Dependent on schedules and availability, students identified by a Physical Therapist, who experience gross motor problems such as balance, walking, jumping, catching, etc., may be eligible to receive improvement services in physical therapy. Therapy is focused on deficit areas in order to strengthen skills before areas of concern become more problematic. Children are usually seen one – two times per week for about 10-30 minutes. The Physical Therapist in consultation with the classroom teacher and parent determines dismissal from services.

Educationally Related Support Services: Temporary psychological services and non-career counseling services are offered to students with the intention of helping them remain in regular education in addition to the other services listed above.

Declassification Support Services: This service may be provided to students and/or student's teachers when a student is moving from special education programs and services to full-time regular education as recommended by the CSE.

SPECIAL EDUCATION PROGRAMS

Special education programming is specifically designed instruction to meet the unique needs of students identified by the CSE as having a disability that interferes with grade appropriate academic progress. Any aspect of the regular special education continuum is available to each eligible student as determined by the CSE. Movement from one program to another is possible through ongoing evaluation of student abilities and needs. The type of program provided to each individual student is listed on the student’s Individualized Education Program Plan (IEP). Preschool children identified by the CPSE are provided appropriate itinerant services in their home, in regular preschool settings, or in special preschool settings.

Transitional Support Services: These services may be provided when a student moves to a less restrictive setting as indicated on the IEP. Transitional services are not direct services to the student but rather are consultation and training provided to the student’s teacher. The district provides this service as needed.

- Tully Special Education Staff
- BOCES Special Education Staff

Related Services: These services assist students to achieve in their educational programs, and are recommended by the Committee on Special Education. Students are grouped by similarity of need within a maximum group of five students per provider. A variety of related services are available to students that include, but are not limited to:

- Speech and language services

Full Time Speech Therapists	Jennifer Adams & TBD
BOCES Providers	BOCES Staff
Preschool Providers	Preschool Staff

- Psychological, Social Worker and Counseling services

School Psychologist	Tim Villhauer
School Social Worker	Melinda Hathaway
Full Time School Counselor	Jennifer Newton
Full Time School Counselor	Katherine Davin
BOCES Providers	BOCES Staff
Preschool Providers	Preschool Staff

- Occupational therapy

Full Time Occupational Therapist	Amanda Hazen
Preschool Providers	Preschool Staff

- Physical therapy

BOCES Providers	BOCES Staff (Pamela Downey)
Preschool Providers	Preschool Staff

- Assistive Technology

BOCES Providers	BOCES Staff
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Resource Room Programs: These programs provide supplemental instruction to regular and special education classes. No credit for coursework may be awarded as a result of resource room instruction. Students are grouped by similarity of need, age, learning style, and there may be no more than five students per instructional group. The program must be recommended for at least three hours per week but cannot exceed 50% of the instructional day. A maximum of twenty students with educational disabilities may be assigned to each resource room teacher in grades K-6, and twenty-five students in grades 7-12. The resource room program offers support services for the student who is unable to acquire certain skills in the regular classroom setting. Students improve knowledge in their deficit areas, develop new learning strategies, and strengthen their study and test taking skills. This programming should bring greater success in the regular classroom. Students are grouped according to need in Resource Rooms with a 5:1 ratio.

SE Teacher Grade K - 6	Abigail Lerch
SE Teacher Grade K - 6	Leandra Reinhard
SE Teacher Grade K - 6	Allie Drexler
SE Teacher Grade K - 6	Sarah Storrier
SE Teacher Grade K - 6	Maggie Tone
SE Teacher Grade K - 6	Laura Konefal
SE Teacher 7 - 12	Dan Longnecker
SE Teacher 7 - 12	Stew Snyder
SE Teacher 7 - 12	Bill Donald
SE Teacher 7 - 12	Adam O'Neill

Co-Taught Courses/Subjects: This refers to an instructional practice where a general education and a special education teacher are jointly responsible for the instruction and assessment of all students within a class. This joint responsibility for both students with and without disabilities to meet the diverse learning needs of all. Currently we have co-taught classes in kindergarten through 9th grade in the areas of ELA and math. Tully Central School District is committed to the growth of successfully co-taught courses and subjects.

SE Teacher Grade K - 6	Abigail Lerch
SE Teacher Grade K - 6	Leandra Reinhard
SE Teacher Grade K - 6	Allie Drexler
SE Teacher Grade K - 6	Sarah Storrier
SE Teacher Grade K - 6	Maggie Tone
SE Teacher Grade K - 6	Laura Konefal
SE Teacher 7 - 12	Dan Longnecker
SE Teacher 7 - 12	Stew Snyder
SE Teacher 7 - 12	Adam O'Neill
SE Teacher 7 - 12	Bill Donald

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Special Class (in District): This refers to specialized instruction in primary instructional areas. Students are recommended for special class instruction when the CSE determines that they can no longer succeed academically in a regular classroom, even with supplemental aides or support services. The district currently maintains various special class programs within the district. These courses are either taught with a special education teacher and a general education teacher that is content specific to that course, a teacher qualified through certification in both special education as well as the content area, and/or a teacher who has met qualifications through HOUSSE. The current special classes in the Elementary building are a 12:1 program. Current special classes in the JSHS are in English and math in a 15:1 program. Students earn credit towards high school graduation and prepare to pass Regents exams so that they can earn a Regents or Local Diploma (and in some cases the additional CDOS credential). Students that are not able to complete the typical graduation requirements may prepare for the TASC. Students with more significant learning needs may be granted a Career Development Occupational Studies Certificate (CDOS) or the Skills & Achievement Credential.

- 12:1 Special Class SE Teacher 3, 4, 5 Laura Konefal, Allie Drexler
- 15:1 English SE Teacher 7 – 9 Stew Snyder
- 15:1 Math SE Teacher 7 – 9 Stew Snyder
- 15:1 English SE Teacher 10 – 12 Dan Longnecker
- 15:1 Math SE Teacher 10 – 12 TBD as needed

BOCES Special Class: These programs are used to augment the continuum of services offered in the district. The CSE considers BOCES and other out of district programs when a student's intensive needs require a unique type of program not available within the district school buildings. The CSE would also consider a neighboring district.

Students are grouped according to need within the following configurations:

- 15:1 Fifteen students and one teacher per instructional group.
 BOCES Providers BOCES Non-Categorical Programs
- 8:1:1 Eight students and one teacher plus one teaching assistant.
 BOCES Providers BOCES Emotionally Disturbed Programs
- 12:1:4 Twelve students and one teacher plus one staff person for every three students.
 BOCES Providers BOCES Severely and Multiply Disabled Programs or Variety of
 Disabilities along with Challenging Behaviors

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- 12:1:1 Twelve students and one teacher plus one teaching assistant
BOCES Providers BOCES classroom instruction plus community based instruction for students with cognitive delays, health impairments, learning disabilities and/or multiple disabilities

Special Education Day Schools Approved by the Commissioner: These schools are occasionally used to meet the needs of very unique students with disabilities. The CSE maintains a list and description of programs approved by the Commissioner in the event that a student's needs cannot be met in a less restrictive setting. Currently the district does not have any students placed in Private Day Schools.

Residential Schools Approved by the Commissioner: These schools have programs that provide 24-hour education and care, 365 days per year. This is a highly restrictive type of placement that is rarely utilized. Currently the district does not have any students placed in residential schools.

Preschool Programs for students with disabilities: These programs are available for students identified by the Committee on Preschool Special Education (CPSE). These programs often have typical preschool students mixed with preschool students with special needs in integrated, less restrictive settings. Programs include:

- Related Services including Speech, OT and PT, etc.
- Special Education Itinerant Teacher
- Special Class in an Integrated Setting
- Special Class in a Non-Integrated Setting

Course Requirements for Graduation

Students with disabilities must participate in credit bearing regular education courses that are required in order to earn a High School Diploma. Regular education courses become increasingly difficult as students progress through the grade levels. In the past, this led to students being removed from the mainstream and placed in special class programs that did not grant credit or prepare students for Regents exams. This trend has been reversed over the past few years. Virtually all High School IEP students are now either in mainstream classes, or are in co-taught credit bearing special classes at the high school level. The Committee on Special Education will recommend as appropriate, on a case by case basis, programs that are in the Least Restrictive Environment so that students have access to the general education curriculum.

The primary focus of special education is the support link it provides to regular education. Every opportunity for integration of special education and regular education must be pursued for all identified students. Procedures have been developed and established by the administrative team and the CSE to ensure maximum participation of students in the regular education program. Developmentally appropriate curriculum and methodologies, implemented by teams of special education and regular education teachers using a Co-Teach and/or Consultant

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Teacher model appears to be the best route to enable more students to be successful K-12. Special Class settings that are credit bearing and Resource Room support is also provided to students, when appropriate.

Providing appropriate career training for students with educational disabilities, in credit bearing classes, is a critical component of this plan. Some students will participate in BOCES Career and Tech Ed courses in 11th and 12th grade. The district recognizes the importance of these programs in assisting students toward becoming contributing members of society.

Assessment Requirements for Graduation

Closely tied to the concept of students participating in the mainstream is the goal of ensuring that the students have a realistic opportunity of passing the state assessments required for graduation. The regular education and special education teachers at all grade levels must prepare students with disabilities to pass Regents exams. The 3 – 8 grade assessments are geared towards evaluating whether or not a student is making sufficient progress towards a Regents diploma. The State Education Department has extended a “Safety Net” for classified students as well as multiple pathways to graduate from High School.

Multiple Pathways for Graduation

The State Education Department has extended a “Safety Net”, as well as “Compensatory Option” for classified students as well as “Multiple Pathways” to graduate from High School. For further information about graduation requirements, options, and pathways for students with disabilities, please refer to:

www.p12.nysed.gov/specialed/gradrequirements

SAFETY NET OPTIONS AVAILABLE TO STUDENTS WITH DISABILITIES TO GRADUATE WITH A LOCAL DIPLOMA (February 2017)		
Eligible Test Option	Requirements	Eligible Test Score
55-54 Low Pass Safety Net Option	<ul style="list-style-type: none"> Students with disabilities who are enrolled in secondary education programs (SED) Students with a Section 504 accommodation plan documented on the plan Students who do not meet the minimum score on the State Regents exam and are recommended and documented by the CSE 	Local Diploma
55-44 Low Pass Safety Net Option with Appeal	<ul style="list-style-type: none"> Students with disabilities who are enrolled in secondary education programs (SED) Students with a Section 504 accommodation plan documented on the plan Students who do not meet the minimum score on the State Regents exam and are recommended and documented by the CSE 	Local Diploma

Compensatory Option

- Student can score between a 45-54 on the Global, U.S. History, or a science Regents and it will be considered a passing score as long as there is another exam of 65+.
- Can be used in conjunction with the Low Pass Option but not the RCT Option

Student scores at least a 55+ on both the Math and ELA Regents	Student scores at least a 65 on another Regents exam for each requirements of the district	Student meets the attendance and course requirements of the district
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- The Appeals Process in conjunction with the Compensatory Option allows students to get a 52-54.

4+1 Multiple Pathways to Graduation


Required for High School Graduation

English Regents*
1 Science Regents*
1 Math Regents*
1 Social Studies Regents*
* at least one of the following

Any Regents Exam to be used in district must

Humanities Pathway Second social studies exam of Department Approved Alternative	STEM Pathway Second math or science exam of Department Approved Alternative	CIE Pathway Completion of State-Approved Career and Technical Education Program and assessment	CBOS Pathway Completion of the Examinations for Option 8 or the Career Development and Occupational Studies Competence-based Credential	Arts Pathway Completion of Arts, Language, and Department Approved Pathway Exam	Liberty Pathway Completion of American Language, Language, and Department Approved Pathway Exam
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Professional Development, Instructional Strategies and Curricular Materials to Successfully Implement the Blueprint for Improved Results for Students with Disabilities and Effective Program Practices Across the Continuum



BLUEPRINT FOR IMPROVED RESULTS FOR STUDENTS WITH DISABILITIES
Office of Special Education

- Students engage in self-advocacy and are involved in determining their own educational goals and plan.*
- Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.*
- Teachers design, provide, and assess the effectiveness of specially-designed instruction to provide students with disabilities with access to participate and progress in the general education curriculum.*
- Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.*
- Schools provide multi-tiered systems of behavioral and academic support.*
- Schools provide high-quality inclusive programs and activities.*
- Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.*

All staff will be exposed to the Blueprint for Improved Results for Students with Disabilities each year and at various times throughout the year. Professional Development Opportunities through special education, will reference the area of the Blueprint being addressed.

Staff development will enhance the readiness of the faculty to fully implement the specifics of this plan. Staff will work together to develop lesson plans that will meet the needs of students with disabilities in all classrooms. Staff will attend workshops and conferences geared toward best practices in each area of the continuum. Staff will focus on improving the instructional programs for all students during conference days, BOCES workshops and trainings through RSE TASC, as well as special education department meetings offered throughout the year. Staff will be encouraged to visit other school districts where students with disabilities are meeting success.

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The instructional strategies and curricular materials used in all classes must be at each student’s instructional level, while allowing access to the grade level Learning Standards. The content that is being presented should stretch the student intellectually to his/her individual limits.

Each student’s IEP must have a comprehensive “road map” of program accommodations or modifications and test accommodations that will be systematically used throughout the instructional day. Students should be able to complete most assignments and learning tasks independently rather than struggling at their frustration level with material that they do not understand.

In addition to how staff will be working toward implementation of the Blueprint, the District will address other principles specified in the Blueprint. Principles such as student and parent involvement will be an area of focus over these next two years as well. The District will increase the level of student involvement in the development and understanding of his/her IEP. We will also work to increase parent participation and understanding of the special education process, through parent voice in IEPs and through the CSE meeting process as a whole.

When deemed necessary, the district will work to provide instructional materials in an alternative format for each student with a disability at the same time as such instructional materials are available to non-disabled students. This could include the use of books on tape, computer programs that read to the student and alternative textbooks that are at the student’s reading level. This may also include large print or Braille format for students as needed.

Method of Evaluation

Several different measures are used to determine the effectiveness of our programs and our implementation of the 7 principles in the Blueprint. These include, but are not limited to, standardized achievement tests, teacher made tests and assessments, state mandated assessments, teacher observation, quarterly grades, progress monitoring information, and samples of students' works. As for the classified students, the IEP goals are also used to determine how well students are succeeding or not succeeding within the classroom. Our level of success in the implementation of the new Blueprint for Improved Results for Students with Disabilities, will be measured through a self-review format for this school year. It is expected that the State will be providing a formalized self-evaluation tool in the near future. Overall program effectiveness will also be measured by progress/attainment of declassification and/or placement in the least restrictive environment.

The image shows a grid of eight small, illegible tables or charts arranged in two columns and four rows. Each table appears to have multiple columns and rows, but the text within them is too small to read. They likely represent data tables related to the evaluation methods mentioned in the text above.

SPACE ALLOCATION

The Board of Education has adopted policies and practices to ensure the allocation of appropriate space within the district for special education programs that meet the needs of students and preschool children with disabilities. Space is provided for district run programs. This district plan contains a space plan that is consistent with the current BOCES special education space plan, and will not be changed without notifying the BOCES Superintendent. The district currently operates special education programs integrated into the mainstream building. Space is available for related services and resource room support.

Elementary School: There are four special education classrooms at the elementary. There is also a speech therapy room, school psychologist's office, a school social workers office, an office for the Director of Student Support Services, space to provide occupational therapy and physical therapy, and a space for sensory activities. Each of these rooms meets the minimum requirements for space.

Junior - Senior High School: There are four special education classrooms at the High School. There is also a school counselor's office, a school psychologist's office, space for speech therapy, occupational therapy and physical therapy. Each of these rooms meets the minimum requirements for space. The JSHS also has a Testing Center, which is its own space for students with disabilities to take tests with accommodations as required on the IEP.

Accessible Instructional Materials (AIM)

Accessible Instructional Materials (AIM) are specialized formats of curricular content designed for use by print disabled learners. They include formats such as braille, audio, large-print and electronic text. In 2004 important new provisions were added to IDEA to improve the production and delivery of AIM for blind students and other students with print disabilities, including those with LD. Opportunities. The 2004 IDEA provisions established a requirement for all states to adopt the National Instructional Materials Accessibility Standard (NIMAS) and to facilitate delivery of materials through the National Instructional Materials Access Center (NIMAC) or another entity.

The Individuals with Disabilities Education Act (IDEA) requires school districts to provide accessible versions of instructional materials to students who are blind or otherwise unable to use printed materials. Students with disabilities should receive materials in accessible formats at the same time as their peers receive their textbooks.

Instructional materials

Instructional materials include textbooks and related core materials such as workbooks.

Accessible formats

Accessible formats include Braille, large print, audio and digital text. Accessible instructional materials afford the flexibility to meet the needs of a broad range of students, even those without disabilities. Fully accessible format means that:

- All text is digital and can be read with text-to-speech, modified with regard to font size, and navigated by unit, chapter, section and page number (or other appropriate segments).
- Images include alternative text and long descriptions when appropriate (alternative text is a replacement for an image that serves the same purpose as the image itself. It is read by a screen reader in place of the image).
- Math equations are provided as images with alternative text or in the content file using MathML.
- Content reading order, levels and headings are determined by publisher tagging.

- Text can be converted to Braille.

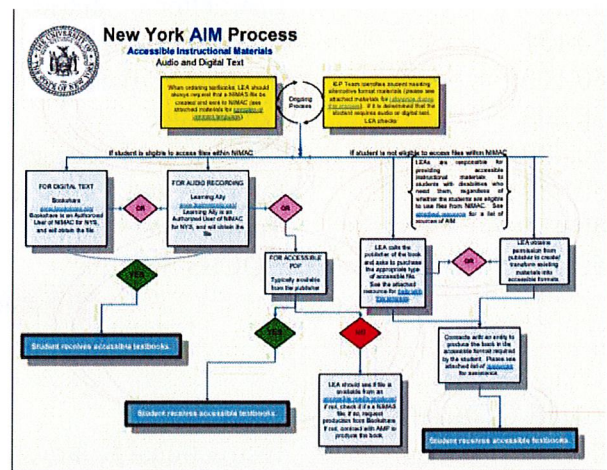
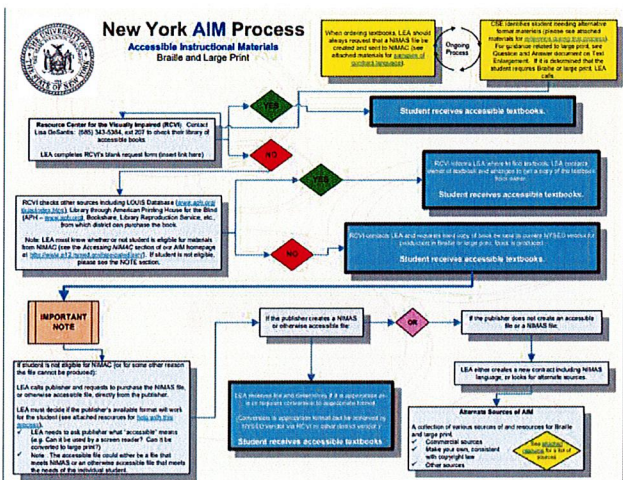
School districts should note that just because a document is digital or online, it is not inherently accessible. File types to consider, from most to least flexible are:

- Digital Accessible Information System (DAISY)/ National Instructional Materials Accessibility Standard (NIMAS) with cascading style sheet;
- HyperText Markup Language (HTML);
- Portable Document Format (PDF), (unlocked, embedded fonts, single page); and
- Rich Text Format (RTF)/Word document.

Obtaining accessible instructional materials in New York State

There are four basic steps in regards to AIM. First, a school district must determine if there is a need for AIM. Second, the district must decide on the format necessary to meet the individual student’s needs. It is possible that an individual student may need different types of formats based on the environment in which he will be using the material. Third, the district must determine the appropriate route for acquiring the specialized format(s). Fourth, the school district must determine what, if any, additional assistive technologies are needed and develop a plan to implement these technologies.

NYSED has developed two flowcharts that demonstrate the acquisition process. There is one flowchart for obtaining Braille and large print, and another flowchart for obtaining audio and digital text. Each flowchart has links to resources embedded within the document; it is recommended that districts use these materials together to provide a full understanding of the process.



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BOARD OF EDUCATION POLICIES

The Board of Education provides access to all policies, including those specific to students with disabilities. These policies are available at any time on the Tully Central School District Website, under the Board of Education page. Policies that pertain to students with disabilities have been attached to this Plan.

BUDGET 2018-2019

The sources of financial support for Special Education programs are derived from the local school budget, state revenues returned to the district and federal grants for identified children. The State of New York provides direct state aid for students with educational disabilities based on the severity of each child's special education need and whether the class is in a public or private location. District wealth is an additional factor in determining state aid for students with educational disabilities. Federal Support is provided to the district in the form of the consolidated grants. It is anticipated that these funds will continue to be allocated, and perhaps additional funds may be available in the future. The 2018-2019 Special Education budget is attached.

**Special Education Budget
2018-2019**

<u>Code</u>	<u>Description</u>	<u>Amount</u>
PROGRAM for STUDENTS with DISABILITIES		
A2250.150	Instructional Salaries	\$ 713,042
A2250.151	Teacher Assistant	\$ 174,074
A2250.160	Support Staff Salaries	\$ 27,678
A2250.200	Equipment	\$12,000
A2250.400	Contractual Expenses	\$ 37,740
A2250.450	Supplies and Materials	\$ 8,640
A2250.471	Tuition Spec. School	\$ 21,563
A2250.490	BOCES Services	<u>\$1,083,075</u>
	Subtotal	\$ 2,077,812
 PSYCHOLOGICAL SERVICES		
A2820.150	Instructional Salaries	\$ 75,421
	Total	\$ 2,153,233

Tully Central School District Special Education Plan

2018-2020

C. Bobbett

Tully Central School District Student Population Broken Down by Type of Educational Disability

Disability Classification	Total # in TCSD 2014	Total # in TCSD 2016	Total # in TCSD 2018
Preschool Student w/ a Disability	7	11	13
Autism	9	8	7
Deafness	1	0	0
Deaf-Blindness	0	0	0
Emotional Disturbance	4	5	3
Hearing Impairment	1	3	4
Intellectual Disability	1	4	6
Learning Disabled	48	42	58
Multiple Disabilities	2	6	5
Orthopedic Impairment	4	0	0
Other Health Impairment	24	22	20
Speech/Language Impairment	24	20	24
Traumatic Brain Injury	3	3	3
Visual Impairment	0	0	0
Total # SWD Preschool-12th Grade	128	124	143

- 2 students are Classified Non-Resident (1 is HI and the other is LD)
- 2 students are Classified No Services (Both are LD)
- Some students have more than one disability however in NYS we use only 1 classification on IEP

Tully Central School District Disability Count by Program/Setting

Disability/ Setting	Tully Related Service Only	Tully Co-Teach	Tully Consultant	Tully Resource	Tully Special Class 15:1	Tully Special Class 12:1:1	Alternative School Consultant	BOCES 12:1:1	BOCES TEAM 12:1:4	BOCES Stellata 12:1:4	BOCES SED 8:1:1	Home School
Autism	1	1		2		1			1			1
Deafness												
Deaf-Blindness												
Emotional Disturbance		1									2	
Hearing Impairment	2	1		1								
Intellectual Disability					1	1		3				1
Learning Disability		27	1	13	7		4	4				2(Class- No Service)
Multiply Disabilities		2		1		1			1			
Orthopedic Impairment												
Other Health Impairment		3	3	4		1	1	1		1	4	1
Speech/Language Impairment	11	9	2			1						
Traumatic Brain Injury						1		1		1		
Visually Impairment												

- Some students receive supports in multiple settings (example: Co Teach + Resource)
Students will be accounted for only 1x, in the setting with the highest level of support he/she receives

Tully Central School District Special Education Plan

2018-2020

C. Bobbett

Tully Central School District Special Education Program/Setting by Grade

Prog/Grade	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungr.
Related Services Only	8	3	1	0	0	1	1	0	0	0	0	0	0	0
CT	0	3	1	0	0	0	0	0	0	3	5	3	3	0
ICT	3	3	2	3	6	3	6	9	4	5	0	0	0	0
RR	0	0	2	1	2	0	4	7	4	8	8	9	6	0
SC 15:1	0	0	0	0	0	0	0	1	0	2	2	4	0	0
SC 12:1:1	0	0	0	3	1/1	2	2/2	0	0	0	2	1	3	1
SC 12:1:4	0	0	0	0	0	1	1	0	0	0	0	0	0	2
SC 8:1:1	0	0	0	0	0	0	1	1	1	1	1	1	0	0
Residential	0	0	0	0	0	0	0	0	0	0	0	0	0	0

***BLUE # is in BOCES Program**

Some students have more than 1 service (Other than RS, students will count in each category-Ex. ICT & RR)

Tully Central School District Special Education Plan

2018-2020

C. Bobbett

Tully Central School District Special Education Disability by Grade

Disability/ Grade	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungr.
Autism		1				2		1	1		1 Home School			1
Deafness														
Deaf-Blindness														
Emotional Disturbance						1		1		1				
Hearing Impairment	1		1					1					1	
Intellectual Disability					1		1	1					1	2
Learning Disability				1	4	2	6	7	4	7	11	12	4	
Multiply Disabilities				1			1	1					1	1
Orthopedic Impairment														
Other Health Impairment	1	1	1	1	1	1	2		1	4	2	1	4	
Speech/ Language Impairment	9	7	2	3	2		1							
Traumatic Brain Injury						1	1						1	
Visually Impairment														

Preschool Students with Disabilities:

Tully Central School District Preschool Student Population Broken Down by Age & Program/Setting

Services/Program/Setting	3 years old	4 years old
Preschool Itinerant Services Only	3	5
Special Education Itinerant Teacher	0	0
SEIT with Related Services	0	0
Special Class Integrated Setting	3	2
Special Class Segregated Setting	0	0

Tully Central School District Special Education Plan

2018-2020

C. Bobbett

Tully Central School District Continuum in Relation to Co-Teach and Special Class in TES and Tully JSHS (We also utilize Consultant Teacher and Resource Room Support)

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Co Teaching								
Elem ELA	inconsistent	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6
Elem Math	inconsistent	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6	K, 1, 2, 3, 4, 5, 6
Elem SS					5th & 6th	5th & 6th	K, 5th & 6th	K, 5th & 6th
Elem Science					5th & 6th	5th & 6th	K, 5th & 6th	K, 5th & 6th
Jr. High School English			7th	7th & 8th	7th & 8th	7th & 8th	7th & 8th	7th & 8th
Jr. High School Math			7th	7th & 8th	7th & 8th	7th & 8th	7th & 8th	7th & 8th
HS English					9th	9th	9th	9th
Special Class (if in HS = Credit Bearing)								
Special Class Reading					3,4	4	3, 4, 5	4,5, 6
Special Class ELA/ English	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	3,4 7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	5 7, 8, 9 10, 11 ,12	4, 5, 6 7, 8, 9 10, 11 ,12
Special Class Math	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	7, 8, 9 10, 11 ,12	3,4 7, 8, 9 10, 11 ,12	4 7, 8, 9	3,4,5 7, 8, 9	4, 5, 6 7, 8, 9
Special Class SS					3,4		5	6 9/10?
Special Class Science					3,4		5	6

Tully Central School District Special Education Plan

2018-2020

C. Bobbett

Summary of April 2013 Memorandum
 Continuum of Special Education Services for School-Age Students with Disabilities
<http://www.p12.nysed.gov/specialed/publications/policy/continuum-schoolage-revNov13.pdf>

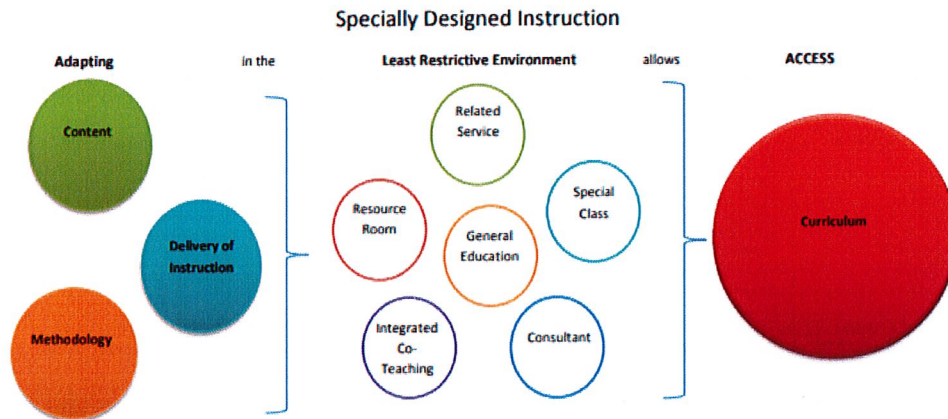
	Consultant Teacher (CT)	Resource Room (RR)	Integrated Co-Teaching (ICT)	Special Class (SC)
Definition	<ul style="list-style-type: none"> Direct – specially designed instruction provided to a SWD Indirect – consultation to a general education teacher Simultaneous with general education instruction 	<ul style="list-style-type: none"> Specialized supplementary instruction - Individualized or small group setting In addition to instruction in all required general education content area learning standards 	<ul style="list-style-type: none"> Specially designed instruction & academic instruction SWD and non-disabled students 	<ul style="list-style-type: none"> Specially designed instruction in a self-contained setting Primary instruction separate from non-disabled peers
Location	<ul style="list-style-type: none"> General education class – including career and technical education class 	<ul style="list-style-type: none"> General education class Separate resource room setting 	<ul style="list-style-type: none"> General education classroom 	<ul style="list-style-type: none"> Separate special education classroom
IEP Documentation	<ul style="list-style-type: none"> Direct – subject area Indirect – subject area of general education teacher receiving consultation 	<ul style="list-style-type: none"> Resource room Frequency, duration, and location 	<ul style="list-style-type: none"> Integrated co-teaching services Frequency, duration, and location 	<ul style="list-style-type: none"> Class size 15:1 12:1, 12:1 + 1, 12:1 + (3:1) 6:1 + 1 8:1 + 1
Methods / Schedule of Services	<ul style="list-style-type: none"> General education teacher & consultant teacher plan, document and report methods and schedules to parents 		<ul style="list-style-type: none"> General education teacher & special education teacher share responsibility for primary instruction, planning, & evaluation of all students 	

NOTE: To meet the individual needs of a student, the CSE could recommend a combination of services; including, but not limited to, integrated co-teaching for some classes, special class(es) for a portion of the day, CT or other supports in other general education classes for the remainder of the day. The specific recommendations must be indicated in the student's IEP.

Summary of April 2013 Memorandum
 Continuum of Special Education Services for School-Age Students with Disabilities
<http://www.p12.nysed.gov/specialed/publications/policy/continuum-schoolage-revNov13.pdf>

	Consultant Teacher (CT)	Resource Room (RR)	Integrated Co-Teaching (ICT)	Special Class (SC)
WHO	<ul style="list-style-type: none"> Certified special education teacher Reading teacher (if specially designed reading instruction) 	<ul style="list-style-type: none"> Certified special education teacher Reading teacher (if specially designed reading instruction) 	<ul style="list-style-type: none"> Certified special education teacher 	<ul style="list-style-type: none"> Certified special education teacher Reading teacher (if specially designed reading instruction)
Grouping	<ul style="list-style-type: none"> SWD grouped by similarity of need 	<ul style="list-style-type: none"> SWD grouped by similarity of need No more than 5 in an instructional group 	<ul style="list-style-type: none"> Up to 12 SWD Number of non-disabled students is more than or equal to number of SWD 	<ul style="list-style-type: none"> SWD grouped by similar need Range of achievement in reading and mathematics up to 3 years {except for 12:1 + (3:1)}
Students - Maximum #	<ul style="list-style-type: none"> Up to 20 students 	<ul style="list-style-type: none"> Up to 20 students MS or HS – up to 25 students 		<ul style="list-style-type: none"> Class size 15:1 12:1, 12:1 + 1, 12:1 + (3:1) 6:1 + 1 8:1 + 1
Primary Instructor	<ul style="list-style-type: none"> General education teacher 	<ul style="list-style-type: none"> General education teacher 	<ul style="list-style-type: none"> General and special education teachers 	<ul style="list-style-type: none"> Special education teacher
Hours per week	<ul style="list-style-type: none"> Minimum of 2 hours/week Minimum of 3 hours/week if receiving RR services also 	<ul style="list-style-type: none"> Minimum of 3 hours/week Minimum of 3 hours/week if receiving CT services also Maximum of 50% of day in RR 	<ul style="list-style-type: none"> Integrated co-teaching services can be provided for part of the day (e.g., one period per day) 	<ul style="list-style-type: none"> Special class services can be provided for part of the day (e.g., one period per day)

NOTE: To meet the individual needs of a student, the CSE could recommend a combination of services; including, but not limited to, integrated co-teaching for some classes, special class(es) for a portion of the day, CT or other supports in other general education classes for the remainder of the day. The specific recommendations must be indicated in the student's IEP.



What does NYS mean by Specially Designed Instruction? Part 200.1(vv)

Specially-designed instruction means **adapting**, as appropriate to the needs of an eligible student under this Part, the **content, methodology, or delivery of instruction** to address the unique needs that result from the student's disability; and to ensure **access** of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students.

Students with disabilities shall be provided special education in the **least restrictive environment**, as defined in section 200.1(cc) of this Part. To enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate, **specially designed instruction** and **supplementary services** may be provided in the regular class, including, as appropriate, providing related services, resource room programs and special class programs within the general education classroom.

Inclusion is not simply about physical proximity. It is about intentionally planning for the success of all students.

thinkinclusive.us

Students

SUBJECT: SPECIAL EDUCATION: DISTRICT PLAN

A District plan shall be developed and updated every two (2) years describing the Special Education program in the Tully Central School District. The District plan shall include the following:

- a) A description of the nature and scope of special education programs and services currently available to students residing in the District, including but not limited to descriptions of the District's resource room programs and each special class program provided by the District in terms of group size and composition.
- b) Identification of the number and age span of students (school age and preschool) to be served by type of disability and recommended setting.
- c) The method to be used to evaluate the extent to which the objectives of the program have been achieved.
- d) A description of the policies and practices of the Board of Education to ensure the allocation of appropriate space within the District for special education programs that meet the needs of students and preschool children with disabilities.
- e) A description of the policies and practices of the Board of Education to ensure that appropriate space will be continually available to meet the needs of resident students and preschool students with disabilities who attend special education programs provided by Boards of Cooperative Educational Services.
- f) A description of how the District intends to ensure that all instructional materials to be used in the schools of the District will be made available in a usable alternative format for each student with a disability at the same time as such instructional materials are available to non-disabled students. The alternative format must meet the National Instructional Materials Accessibility Standard defined in federal law.
- g) The estimated budget to support such plan.
- h) The date on which such plan was adopted by the Board of Education.
- i) A description of how the District plan is consistent with the special education space requirements plan for the region as developed by the Board of Cooperative Educational Services.

The District plan, with personally identifiable student information deleted, shall be filed and available for public inspection and review by the Commissioner.

20 United States Code (USC) 1474(e)(3)(B)
8 New York Code of Rules and Regulations (NYCRR)
Part 155 and Section 200.2(c)

Adoption Date: 12-20-05

SUBJECT: CHILDREN WITH DISABILITIES

A child with a disability means a student under the age of twenty-one who is entitled to attend public schools and who, because of mental, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. A child is not considered as having a disability if his/her educational needs are due primarily to unfamiliarity with the English language; environmental, cultural or economic factors; or lack of appropriate instruction in reading or mathematics.

If the State Education Department finds that the District has inappropriate policies, procedures or practices resulting in a significant disproportionality by race/ethnicity in the suspension, identification, classification and/or placement of students with disabilities, the District will ensure that it publicly reports on the subsequent revisions to those policies, procedures or practices.

The Board of Education recognizes the existence of individual differences in the intellectual, social, emotional and physical development of children attending school in the District. In recognizing these differences the Board supports a system of services offered in the least restrictive environment for children with disabilities which includes:

- a) Not requiring any student to obtain a prescription for a drug or other substance identified as a controlled substance by the federal Controlled Substances Act as a condition of receiving services.
- b) Education in regular classes with or without support services, education in a resource room, education for part of the day in a special class, full time education in a special class, home instruction and education in a residential setting.
- c) Providing for the education of students with disabilities with non-disabled peers to the extent appropriate.
- d) Taking the following measurable steps to recruit, hire, train and retain highly qualified personnel to provide special education programs and services:
 1. Utilize established procedures for publication of all potential job openings;
 2. Check credentials and requirements listed on applications;
 3. Provide training sessions for interview committee;
 4. Special Education teachers are required to have subject matter knowledge appropriate to the level of instruction being provided; when teaching two (2) or more core academic subjects exclusively to children with disabilities, the teacher will meet the requirements of "highly qualified" per the No Child Left Behind Act (NCLB) and the

(continued)

SUBJECT: CHILDREN WITH DISABILITIES (Cont'd.)

- Individuals with Disabilities Education Improvement Act of 2004 (IDEA) or demonstrate competence in all the core academic subjects taught per state regulations;
5. Special education teachers and administrators are required to complete enhanced training in the needs of autistic children.
- e) Establishing the following guidelines for the provision of appropriate accommodations necessary to measure the academic achievement and functional performance of the student in the administration of District-wide assessments:
1. Ensure that necessary accommodations are specified on individualized education program (IEP) and implemented in accordance with the IEP;
 2. Review the need for accommodations at Committee on Special Education (CSE) evaluations/re-evaluations;
 3. etc.
- f) To the extent feasible, using universal design principles (defined as a concept or philosophy for designing and delivering products and services that are usable by people with the widest range of functional capabilities, which include products and services that are directly usable without requiring assistive technologies and products and services that are made usable with assistive technologies) in developing and administering District-wide assessment programs by:
1. Addressing appropriate universal design principles in IEP;
 2. Having the Library Media Specialist and/or Curriculum Coordinator keep Committee on Special Education (CSE)/Committee on Preschool Special Education (CPSE) apprised of available products and services utilizing universal design principles;
 3. Ensuring that instructional materials and activities allow learning goals to be achievable by individuals with wide differences in abilities;
 4. Ensuring that flexible curricular materials and activities are built into the instructional design and operating systems;
 5. Ensuring that instruction is diversified to deliver the general education curriculum to every student and diversify ways students may respond to that curriculum.

(continued)

SUBJECT: CHILDREN WITH DISABILITIES (Cont'd.)

6. Consideration of the location of a school program(s) to a student's residence, before placement into an educational program.
7. Adoption of written policies and procedures ensuring that students with disabilities are provided appropriate opportunities to earn a high school diploma in accordance with Commissioner's Regulations.
8. Allocation of appropriate space within the District for special education programs that meet the needs of students with disabilities.
9. Assurance that appropriate space will be available to meet the needs of resident students with disabilities who attend special education programs provided by BOCES.

Provision of Special Education Services to Nonpublic School Students with Disabilities who are Parentally Placed

The **district of location** is responsible for child find, including individual evaluations, Committee on Special Education (CSE) meetings, provision of special education services, and due process to parentally placed nonpublic school students attending nonpublic schools located in the geographic region of the public school district.

These requirements only pertain to students with disabilities parentally placed in elementary and secondary nonpublic schools, not to parental placements of preschool children with disabilities in private day care or preschool programs; or to CSE placements of students with disabilities in approved private schools, Special Act School Districts, State-supported or State-operated schools or to Charter schools.

The actual cost for Committee on Special Education (CSE) administration, evaluations and special education services provided to a student with a disability who is a resident of New York State, but a nonresident to the district of location, may be recovered from the student's school district of residence. Because federal regulations require parental consent before any personally identifiable information about the student relating to special education is shared between officials in the public school district of location and officials in the public school district of residence, parent consent to share special education information between the two public school districts is required before billing a district of residence for the cost of special education services provided to the student by the district of location.

Parental consent must be obtained by the school district of location before any personally identifiable information about the student is shared between officials in the public school district of residence and officials in the public school district of location.

(continued)

SUBJECT: CHILDREN WITH DISABILITIES (Cont'd.)

The school district of location must consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school students with disabilities enrolled in nonpublic elementary and secondary schools located within the boundaries of the school district. The school district must engage in consultation regarding the child find process and services generally; consultation is not specific to individual students. Individual services are determined by the CSE.

The consultation process must be timely and meaningful and include discussion of:

- 1) Child Find;
- 2) Provision of Special Education Services; and
- 3) Use of Federal Funds.

The school district of location must provide, as appropriate, special education services to an eligible student who legally resides in another state and who is parentally placed in a nonpublic school located in New York State. The services to be provided to out-of state students must be documented on a services plan that is developed by the CSE of the district of location. The services plan is the written plan that describes the specific special education and related service that the district of location will provide to the student consistent with the services that the school district of location has determined through the consultation process and in relation to the proportionate shares of federal IDEA Part B dollars, to be provided to the student.

Tuition Reimbursement Claims for Disabled Nonpublic School Students

The parent must comply with the IDEA's pre-hearing notice requirement for tuition reimbursement claims. Specifically, the IDEA directs that at least ten (10) business days before submitting a request for an impartial due process hearing for tuition reimbursement, the parent must give the district written notice of intent to enroll the child in private school at public expense. The purpose of this requirement is to give the public school district's CSE the opportunity to meet and develop a new IEP for the student that addresses the parent's concerns. *A parent who does not provide such written notice within ten (10) days may have his request for reimbursement reduced or denied. In most cases, a parent's failure to satisfy these notice requirements is a complete bar to recovery.*

Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446 Sections 612 and 614
Individuals with Disabilities Education Act (IDEA), 20
United States Code (USC) Section 1400 et seq.
20 United States Code (USC) Section 9101(23)

SUBJECT: CHILDREN WITH DISABILITIES (Cont'd.)

21 United States Code (USC) Section 812(c)
34 Code of Federal Regulations (CFR) Part 300
Education Law Sections 3004(4), 3004(5), 3208, 3242,
3602-c, 4401-4407 and 4410-6
8 New York Code of Rules and Regulations (NYCRR)
Sections 52.21, 57-3, 100.5, 100.9, 177.2, 200.2(b),
200.2(c)(2)(v), 200.4(e)(9) and 200.6(a)(1)

NOTE: Refer also to Policies #7615 -- Least Restrictive Environment

Adoption Date: 01-23-12

Students

SUBJECT: GROUPING BY SIMILARITY OF NEEDS

The Board of Education will provide appropriate special education and related services to students with disabilities. For those students for whom an appropriate education requires that they be placed together for purposes of special education, the following guidelines shall apply:

- a) That each student with a disability shall be identified, evaluated and placed as determined by the Committee on Special Education (CSE).
- b) The Committee shall determine written goals and corresponding short-term instructional objectives for each student with a disability by considering the special and individual needs of each student with a disability.
- c) The Committee shall recommend to the Board of Education appropriate educational programs and services for each student with a disability based upon the CSE evaluation.
- d) The CSE shall provide information to those teachers and professionals who arrange instructional groups for students with disabilities. Information shall include physical, psychological and social information as well as achievement test results.
- e) The curriculum and instruction provided to students with disabilities who are grouped by similarity of needs shall be consistent with the individual needs of each student in the group.
- f) Students with disabilities may be grouped according to:
 - (1) Academic achievement, functional performance and learning characteristics;
 - (2) Social needs;
 - (3) Physical development; and
 - (4) Management needs.
- g) When grouping students by similarity of needs, the social needs or physical development of a student shall not be the sole determinant for placement of a student in a special education program.
- h) The management needs of such students may vary, provided that environmental modifications, adaptations, or human or material resources required to meet the needs of any one student in the group are provided and do not consistently detract from the opportunities of other students in the group to benefit from instruction.

8 New York Code of Rules and Regulations (NYCRR)
Sections 200.2(b)(3) and 200.6(a)(3)

Adoption Date: 12-20-05

Students

**SUBJECT: THE ROLE OF THE BOARD IN IMPLEMENTING A STUDENT'S
INDIVIDUALIZED EDUCATION PROGRAM**

The Board of Education shall establish at least one Committee on Special Education and one Committee on Preschool Special Education. The Board shall also establish, as necessary, Subcommittees on Special Education to ensure timely evaluation and placement of students with disabilities.

Committee on Special Education

The Board of Education shall, upon completion of its review of the recommendations of the CSE, arrange for the appropriate special education programs and services to be provided to a student with a disability. The Board shall notify the parent/guardian of its action in accordance with federal and state law and regulations.

For a student not previously identified as having a disability, the CSE shall provide a recommendation to the Board which shall arrange for the appropriate special education programs and services to be provided within sixty (60) school days of the date of receipt of consent to evaluate. For a student with a disability referred for review, a recommendation shall be provided to the Board which shall arrange for the appropriate special education programs and services to be provided within sixty (60) school days of the referral for review. However, if such recommendation of the CSE is for placement in an approved in-state or out-of-state private school, the Board shall arrange for such special education programs and services for students with disabilities within thirty (30) days of the Board's receipt of the recommendation of the CSE.

If on review of the recommendation of the CSE, the Board of Education disagrees with such recommendation, the Board shall follow one of the following procedures:

- a) The Board may remand the recommendation to the CSE with a statement of the Board's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns. The CSE shall consider the Board's objections or concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree with the recommendation of the CSE, the Board may continue to remand the recommendation to the original committee for additional reviews of its objections or concerns, or establish a second CSE to develop a new recommendation in accordance with the following paragraph, provided that the Board arranges for the programs and services in accordance with the student's IEP within the timelines as outlined above; or, in the alternative,
- b) The Board may establish a second CSE to develop a new recommendation for the student. If the Board disagrees with such new recommendation, the Board may remand the recommendation to the second CSE with a statement of the Board's objections or concerns and a request that a timely meeting be held to review and consider such objections or

(Continued)

Students

**SUBJECT: THE ROLE OF THE BOARD IN IMPLEMENTING A STUDENT'S
INDIVIDUALIZED EDUCATION PROGRAM (Cont'd.)**

concerns. The second CSE shall consider the Board's objections or concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree with the recommendation of the second CSE, the Board may continue to remand the recommendation for additional reviews of its objections or concerns by the second CSE, provided that the Board arranges for the programs and services in accordance with the student's IEP, as developed by the second CSE, within the timelines as outlined above.

Pursuant to Commissioner's Regulations, the Board may not select the recommendation of the original CSE once it has established a second CSE.

The Board shall provide the student's parents/guardians with written notice and a copy of the statement of its objections or concerns and notice of due process rights in accordance with Section 200.5 of the Regulations of the Commissioner.

Committee on Preschool Special Education

Upon receipt of the recommendation of the Committee on Preschool Special Education (CPSE), the Board of Education shall arrange for the preschool student with a disability to receive such appropriate programs and services in accordance with the student's IEP, commencing with the July, September or January starting date for the approved program, unless such services are recommended by the CPSE less than thirty (30) school days prior to, or after, the appropriate starting date selected for the preschool student with a disability; in that case, such services shall be provided no later than thirty (30) days from the recommendation of the CPSE.

If the Board disagrees with the recommendation of the CPSE, the Board shall send the recommendation back to the CPSE with notice of the need to schedule a timely meeting to review the Board's concerns and to revise the IEP as deemed appropriate. The Board of Education shall provide such notice as required by federal and state law and regulations.

Subcommittee on Special Education

The number of Subcommittees on Special Education will be determined by the CSE and the CSE will be responsible for the oversight and monitoring of the activities of each subcommittee to assure compliance with the requirements of applicable state and federal laws and regulations.

Each Subcommittee may perform the functions for which the CSE is responsible, except:

- a) When a student is considered for initial placement in a special class; or
- b) When a student is considered for initial placement in a special class outside of the student's school of attendance; or

(Continued)

Students

**SUBJECT: THE ROLE OF THE BOARD IN IMPLEMENTING A STUDENT'S
INDIVIDUALIZED EDUCATION PROGRAM (Cont'd.)**

- c) When a student is considered for placements in a school primarily serving students with disabilities or a school outside the District.

Subcommittees shall report annually to the CSE regarding the status of each student with a disability within its jurisdiction. Upon receipt of a written request from the parent or person in parental relation to a student, the Subcommittee shall refer to the CSE any matter in which the parent disagrees with the Subcommittee's recommendation concerning a modification or change in the identification, evaluation, educational placement or provision of a free appropriate education to the student.

Education Law Sections 4402 and 4410
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.2(d)(1), 200.4(c), 200.4(d), 200.5 and
200.16(e)

NOTE: Refer also to Policies #7631 -- Appointment and Training of Committee on Special Education (CSE)/Subcommittee on Special Education Members
#7632 -- Appointment and Training of Committee on Preschool Special Education (CPSE) Members

Adoption Date: 12-15-08

Students

SUBJECT: PRESCHOOL SPECIAL EDUCATION PROGRAM

The Board recognizes the need for educational programs for three (3) and four (4) year old children with disabilities and directs that administrative practices and procedures be developed to:

- a) Ensure the timely evaluation and placement of each preschool child with a disability residing in the District so the child has the opportunity to participate in preschool programs.
- b) Establish a Committee on Preschool Special Education (CPSE) which shall be comprised in accordance with applicable federal and state law and regulation.
- c) Ensure that parents have received and understand the request for consent for evaluation and re-evaluation of a preschool aged child.

Evaluations for Preschool Children with Disabilities

The District is required to collect entry assessment data in the three (3) outcome areas on all preschool children who receive an initial evaluation. As currently required by Commissioner's Regulation Section 200.5, a parent must be fully informed about the proposed initial evaluation and must provide consent for an initial evaluation. This would include a description of the proposed evaluation.

The CPSE will receive entry-level assessment results in the three (3) outcome areas from approved preschool evaluators conducting initial evaluations on all preschool children suspected of having disabilities. The CPSE will then meet to determine the child's eligibility for preschool education programs and/or services and complete the Child Outcomes Summary Form to determine the child's entry level of functioning in the three (3) outcome areas for all preschool children evaluated and found to be eligible. The form is kept in the student's record until the exit assessment information is due as a way to summarize complex assessment information in a format so that the data can be aggregated and reported to the State Education Department (SED).

If the committee recommends placing a child in an approved program that also conducted an evaluation of such child, it shall indicate in writing that such placement is an appropriate one for the child. In addition, the committee shall provide notice to the Commissioner of such recommendation.

Individuals with Disabilities Act (IDEA), 20 USC Section 1400 et seq.
Education Law Section 4410
8 NYCRR Sections 200.2(b)(2), 200.2(b)(5) and 200.5

NOTE: Refer also to Policy #7632 -- Appointment and Training of Committee on Preschool Special Education (CPSE) Members

Adoption Date: January 26, 2015

Students

SUBJECT: LEAST RESTRICTIVE ENVIRONMENT

Least restrictive environment means that placement of students with disabilities in special classes, separate schools or other removal from the regular educational environment occurs only when the nature or severity of the disability is such that even with use of supplementary aids and services, education in regular classes cannot be satisfactorily achieved. The placement of an individual student with a disability in the least restrictive environment shall:

- a) Provide the special education and related services, as well as supplementary aids and services, needed by the student. The term "related services" does not include a medical device that is implanted, or the replacement of such device;
- b) Provide for education of the student to the maximum extent appropriate to the needs of the student with other students who do not have disabilities; and
- c) Be as close as possible to the student's home.

The District has an obligation, pursuant to law and regulation, to educate students with disabilities in the least restrictive environment. The School District shall ensure that:

- a) Each student with a disability shall be educated with nondisabled students to the maximum extent appropriate;
- b) Each student with a disability shall be removed from the regular educational environment only when the nature or severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and
- c) To the maximum extent appropriate to the student's needs, each student with a disability shall participate with nondisabled students in nonacademic and extracurricular services and activities.

The District shall ensure that a continuum of alternative placements, in accordance with law and/or regulation, will be available to meet the needs of students with disabilities for special education and related services. To enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate, specially designed instruction and supplementary services may be provided in the regular class. Such services may include, but are not limited to, consultant teacher services and other group or individual supplemental or direct special education instruction.

Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Sections 4401-4410-a
8 New York Code of Rules and Regulations (NYCRR)
Sections 100.5, 100.9, 200.1(cc), 200.1(qq), 200.2(b),
200.4 and 200.6

Adoption Date: 12-20-05

Students

SUBJECT: PREREFERRAL INTERVENTION STRATEGIES

The District will implement school-wide approaches and prereferral interventions in order to remediate a student's performance within the general education setting prior to referral to the Committee on Special Education (CSE) for special education. The determination of prevention and prereferral intervention strategies or services will take into consideration the student's strengths, environment, social history, language, and cultural diversity, in addition to the teacher's concerns. The District may also provide a Response to Intervention (RtI) program to eligible students that is developed in accordance with Commissioner's regulations as part of its school-wide approach to improve a student's academic performance prior to a referral for special education.

The provision of programs and/or services for students starts with consideration and implementation of instruction in the general education curriculum, with appropriate supports, or modifications as may be necessary. In implementing prereferral intervention strategies, the District may utilize resources or strategies already in place for qualified students including, but not limited to, services available through Section 504 of the Rehabilitation Act of 1973 and Academic Intervention Services (AIS) as defined in Education Law and/or Commissioner's regulations. The District will ensure that there is a system in place, with qualified, appropriately certified personnel, for developing, implementing, and evaluating prereferral intervention strategies.

If a student is identified as needing additional instructional support, the District will establish formal Instructional Support Teams (ISTs) in accordance with law, regulations, and District guidelines, as may be applicable, to review information from the student's work, screenings, and assessments. The IST will include representatives from general and special education as well as other disciplines and include individuals with classroom experience, who may then recommend which type of instructional support the student requires and the frequency with which he or she should receive these services or supports. The building administrator will further ensure that all staff are familiar with intervention procedures and procedures for operating an IST. Parents or persons in parental relation to students will be involved in developing prereferral strategies to address the educational needs of the child. Additionally, the District may seek collaboration between outside agencies and the school prior to a referral of the student to the CSE in order to address necessary student support services.

District administration will also ensure that opportunities exist for collaboration between general educators and special educators, and that consultation and support are available to teachers and other school personnel to assist parents or persons in parental relation to students and teachers in exploring alternative approaches for meeting the individual needs of any student prior to formal referral for special education.

Prereferral/Intervention Instructional Support Plans will be designed so as to set forth proactive strategies to meet the broad range of individual student needs and to improve student performance. Prereferral/Intervention strategies and/or Instructional Support Plans will be reviewed and evaluated to determine their effectiveness and modified as appropriate. Appropriate documentation of the prevention and/or intervention strategies implemented will be maintained.

(Continued)

Students

SUBJECT: PREREFERRAL INTERVENTION STRATEGIES (Cont'd.)

If a referral is made to the CSE during the course of implementing prereferral/intervention instructional support services, the CSE is obligated to fulfill its duties and functions, and must meet mandatory time lines in evaluating the student for special education services and implementation of an individualized education program (IEP), if applicable.

Academic Intervention Services

The Board will provide students at risk of not achieving state standards with AIS. AIS means additional instruction which supplements the instruction provided in the general education curriculum and assists students in meeting those state learning standards as defined in Commissioner's regulations and/or student support services which may include guidance, counseling, attendance, and study skills which are needed to support improved academic performance. The District will identify students to receive AIS through a two-step identification process set forth in Commissioner's regulations.

The District will provide AIS to students who are limited English proficient (LEP) and are determined, through uniformly applied District-developed procedures, to be at risk of not achieving state learning standards in English language arts, mathematics, social studies and/or science, through English or the student's native language.

The District has developed a description of the AIS offered to grades K through 12 students in need of these services. The description includes any variations in services in schools within the District and specifically sets forth:

- a) The District-wide procedure(s) used to determine the need for AIS;
- b) Academic intervention instructional and/or student support services to be provided;
- c) Whether instructional services and/or student support services are offered during the regular school day or during an extended school day or year; and
- d) The criteria for ending services, including, if appropriate, performance levels that students must obtain on District-selected assessments.

The District will review and revise this description annually based on student performance results.

Parental Notification

- a) Commencement of Services: Parents or persons in parental relation to a student who has been determined to need AIS will be notified in writing by the building principal. This notice will be provided in English and translated into the parent's native language or mode of communication, as necessary. The notice will also include a summary of the AIS to be provided to the student, why the student requires these services, and the consequences of not achieving expected performance levels.

(Continued)

Students

SUBJECT: PREREFERRAL INTERVENTION STRATEGIES (Cont'd.)

- b) Ending of AIS: Parents or persons in parental relation will be notified in writing when AIS is no longer needed. This notice will be provided in English and translated to the parent's native language or mode of communication, as necessary.

Parents will be provided with ongoing opportunities to consult with the student's teachers and other professional staff providing AIS, receive reports on the student's progress, and information on ways to work with their child to improve achievement.

§ 504 of the Rehabilitation Act of 1973, 29 USC § 794 et seq.
Education Law §§ 3602, 4401, and 4401-a
8 NYCRR §§ 100.1(g), 100.1(p), 100.1(r), 100.1(s), 100.1(t), 100.2(v), 100.2(dd)(4), 100.2(ee),
200.2(b)(7), 200.4(a)(2), 200.4(a)(9); 200.4(c), and Part 154

NOTE: Refer also to Policy #7212 -- Response to Intervention (RtI) Process

Students

SUBJECT: DECLASSIFICATION OF STUDENTS WITH DISABILITIES

The School District shall establish and implement a plan for the appropriate declassification of students with disabilities which must include:

- a) The regular consideration for declassifying students when appropriate;
- b) A reevaluation of the student prior to declassification; and
- c) The provision of educational and support services to the student upon declassification.

Eligibility Determinations

The School District must evaluate a student with a disability prior to determining that a student is no longer a student with a disability as defined in accordance with Commissioner's Regulations, and the District shall provide a copy of the evaluation report and the documentation of eligibility to the student's parent. The results of any reevaluations must be addressed by the Committee on Special Education (CSE) in a meeting to review and, as appropriate, revise the student's IEP.

The District is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regents diploma or exceeding the age eligibility for a free appropriate public education. However, the parent must receive prior written notice, in accordance with Commissioner's Regulations, before the student's graduation from high school with a local or Regents diploma or before he/she receives an Individualized Education Program (IEP) diploma. If the student will be graduating with an IEP diploma, this prior written notice must indicate that the student continues to be eligible for a free appropriate public education until the end of the school year in which the student turns twenty-one (21) or until receipt of a regular high school diploma.

Prior to the reevaluation, the School District shall obtain informed written parental consent unless otherwise authorized pursuant to law and/or regulation. Parental consent need not be obtained if the District can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parents fail to respond. The District must have a record of its attempts to obtain parental consent. Should the student's parents refuse consent for the reevaluation, the District may continue to pursue the reevaluation by using mediation and/or due process procedures.

The District shall take whatever action is necessary to ensure that the parent understands the proceedings at the meeting of the CSE, including arranging for an interpreter for parents with deafness or whose native language is other than English.

(Continued)

Students

SUBJECT: DECLASSIFICATION OF STUDENTS WITH DISABILITIES (Cont'd.)

Recommendation for Declassification

If the student has been receiving special education services, but it is determined by CSE that the student no longer needs special education services and can be placed in a regular educational program on a full-time basis, the recommendation shall:

- a) Identify the declassification support services, if any, to be provided to the student; and/or the student's teachers; and
- b) Indicate the projected date of initiation of such services, the frequency of provision of such services, and the duration of these services, provided that such services shall not continue for more than one (1) year after the student enters the full-time regular education program.

Declassification Support Services

When appropriate, the District shall provide declassification support services to students who have moved from special education to a full-time regular educational program in accordance with the recommendation of the CSE.

Declassification support services means those services provided by persons appropriately certified pursuant to Part 80 of Commissioner's Regulations, or holding a valid teaching license in the appropriate area of service, to a student or the student's teacher to aid in the student's move from special education to full-time regular education, including:

- a) For the student, psychological services, social work services, speech and language improvement services, noncareer counseling, and other appropriate support services; and
- b) For the student's teacher, the assistance of a teacher aide or a teaching assistant, and consultation with appropriate personnel.

Procedural Safeguards Notice

The District shall use the procedural safeguards notice prescribed by the Commissioner of Education. The District will further ensure that the procedural safeguards notice is provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the District shall take steps to ensure that the notice is translated orally or by other means to the parent in his/her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that all due process procedures, pursuant to law and/or regulation, have been met.

(Continued)

Students

SUBJECT: DECLASSIFICATION OF STUDENTS WITH DISABILITIES (Cont'd.)

Individuals with Disabilities Education Improvement Act of
2004 [Public Law 108-446 Section 614(a)]
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Sections 4401-4410-a
8 New York Code of Rules and Regulations (NYCRR)
Sections 100.1(q), 100.2(u), 200.2(b)(8), 200.4(b)(4),
200.4(b)(5), 200.4(c)(3), 200.4(d)(1) and 200.5

Adoption Date: 12-20-05

Students

SUBJECT: STUDENTS WITH DISABILITIES PARTICIPATING IN SCHOOL DISTRICT PROGRAMS

All students with disabilities residing in the District, including those of preschool age, shall be provided with full access and opportunity to participate in School District programs, including extracurricular programs and activities, that are available to all other students enrolled in the public schools of the District. Parents/guardians of students with disabilities, including those students placed in out-of-District programs, shall receive timely notice of such District programs and activities.

8 New York Code of Rules and Regulations (NYCRR)
Sections 200.2(b)(1) and 200.2(b)(2)

Students

SUBJECT: SECTION 504 OF THE REHABILITATION ACT OF 1973

The Board of Education affirms its compliance with those sections of the Rehabilitation Act of 1973 dealing with program accessibility.

Section 504 of the Rehabilitation Act prohibits discrimination against qualified individuals with disabilities in federally assisted programs or activities solely on the basis of disability. The District shall make its program and facilities accessible to all its students with disabilities.

The District shall also identify, evaluate and extend to every qualified student with a disability under Section 504 a free, appropriate public education, including modifications, accommodations, specialized instruction or related aids and services, as deemed necessary to meet their educational needs as adequately as the needs of non-disabled students are met.

The District official responsible for coordination of activities relating to compliance with Section 504 is appointed annually at the reorganization meeting of the Board of Education. This official shall provide information, including complaint procedures, to any person who feels his/her rights under Section 504 have been violated by the District or its officials.

Section 504 of the Rehabilitation Act of 1973,
29 United States Code (USC) Section 794 et seq.

NOTE: Refer also to Policy #7550 -- Complaints and Grievances by Students

Students

SUBJECT: APPOINTMENT AND TRAINING OF COMMITTEE ON SPECIAL EDUCATION (CSE)/SUBCOMMITTEE ON SPECIAL EDUCATION MEMBERS

Committee on Special Education (CSE) Membership

The Board of Education shall appoint a Committee on Special Education (CSE) whose membership shall include, but not be limited to, the following members:

- a) The parent(s) of the student. To ensure that one or both parents are present at each CSE meeting, the District and the parent(s) may agree to use alternative means of participation such as videoconferences or conference phone calls.
- b) Not less than one (1) regular education teacher of such student (if the student is, or may be, participating in the regular education environment);
- c) Not less than one (1) special education teacher of the student, or, where appropriate, at least one (1) special education provider (i.e., related service provider) of such student;
- d) A representative of the School District who is qualified to provide or administer or supervise special education and who is knowledgeable about the general education curriculum and about the availability of resources of the District;
- e) An individual who can interpret the instructional implications of evaluation results, who may be a CSE member selected from the regular education teacher, the special education teacher or provider, the school psychologist, or the School District representative described above, or a person having knowledge or special expertise regarding the student as determined by the District;
- f) At the discretion of the parent or the District, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of knowledge or special expertise shall be made by the party (parents or School District) who invited the individual to be a member of the committee;
- g) Whenever appropriate, the student with a disability;
- h) A school psychologist;
- i) A school physician, if requested in writing at least seventy-two (72) hours prior to the meeting by the parents of the student or the School District; and

(Continued)

Students

SUBJECT: APPOINTMENT AND TRAINING OF COMMITTEE ON SPECIAL EDUCATION (CSE)/SUBCOMMITTEE ON SPECIAL EDUCATION MEMBERS (Cont'd.)

- j) An additional parent residing in the District or a neighboring school district who is a parent of a student with a disability, a parent of a student who has been declassified and is no longer eligible for an individualized education program (IEP), or a parent of a disabled child who has graduated. This parent member may serve for a period of five years beyond the student's declassification or graduation, provided that the parent shall not be employed by or under contract with the School District. Such parent is not a required member if the parents of the student request, in writing, that the additional parent member not participate in the meeting.

Subcommittee on Special Education Membership

The Board of Education shall appoint, as necessary, a Subcommittee on Special Education whose membership shall include, but not be limited to, the following members:

- a) The parent(s) of the student;
- b) Not less than one (1) regular education teacher of such student (if the student is, or may be, participating in the regular education environment);
- c) Not less than one (1) special education teacher, of the student, or where appropriate, at least one (1) special education provider (i.e., related service provider) of such student;
- d) A representative of the School District who is qualified to provide or administer or supervise special education and who is knowledgeable about the general education curriculum and about the availability of resources of the District;
- e) A school psychologist, whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ratio, as set forth in Section 200.6(f)(4) of the Regulations of the Commissioner, is considered;
- f) At the discretion of the parent or the Committee, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. The determination of knowledge or special expertise shall be made by the party (parents or School District) who invited the individual to be a member of the subcommittee;
- g) An individual who can interpret the instructional implications of evaluation results, who may be a member described in letters "b" through "f" of this subheading; and
- h) Whenever appropriate, the student with a disability.

(Continued)

Students

SUBJECT: APPOINTMENT AND TRAINING OF COMMITTEE ON SPECIAL EDUCATION (CSE)/SUBCOMMITTEE ON SPECIAL EDUCATION MEMBERS (Cont'd.)

Training

The training of qualified personnel is essential to the effective implementation of the Regulations of the Commissioner of Education regarding the education of all students with disabilities.

The Director of Special Education shall be responsible to the Superintendent for establishing administrative practices and procedures for training all District personnel responsible for carrying out the provisions of Part 200 of the Commissioner's Regulations as well as members of the Committee on Special Education.

Alternative Means of Meeting

When conducting a meeting of the CSE, the parent and the representative of the District appointed to the CSE may agree to use alternative means of meeting participation, such as videoconferences and conference calls.

Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Section 4402
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.2(b)(3), 200.3, and 200.4(d)(4)(i)(d)

NOTE: Refer also to Policies #7613 -- The Role of the Board in Implementing a Student's Individualized Education Program
#7632 -- Appointment and Training of Committee on Preschool Special Education Members

Adoption Date: 01-15-08

Students

**SUBJECT: APPOINTMENT AND TRAINING OF COMMITTEE ON PRESCHOOL
SPECIAL EDUCATION (CPSE) MEMBERS**

Committee on Preschool Special Education (CPSE) Membership

The Board of Education shall appoint a Committee on Preschool Special Education (CPSE) whose membership shall include, but not be limited to, the following members:

- a) The parent(s) of the preschool child;
- b) Not less than one (1) regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
- c) Not less than one (1) special education teacher of the child or, where appropriate, at least one (1) special education provider (i.e., related service provider) of such child;
- d) A representative of the School District who is qualified to provide, or supervise the provision of, special education and who is knowledgeable about the general education curriculum and about the availability of preschool special education programs and services and other resources of the District and the municipality (who shall serve as Chairperson of the CPSE);
- e) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the regular education teacher, the special education teacher or provider, the school psychologist, the School District representative described above, or a person having knowledge or special expertise regarding the student as determined by the District;
- f) At the discretion of the parent or the District, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate. The determination of knowledge or special expertise shall be made by the party (parents or School District) who invited the individual to be a member of the committee;
- g) An additional parent of a child with a disability who resides in the School District or a neighboring school district, and whose child is enrolled in a preschool or elementary level education program provided that such parent shall not be employed by or under contract with the School District or municipality; and provided further that such parent shall not be a required member if the parents of the child request, in writing, that the additional parent member not participate in the meeting;
- h) For a child's transition from early intervention programs and services (Infant and Toddler Programs), the appropriately licensed or certified professional from the County Early Intervention Program. This professional must attend all meetings of the CPSE conducted prior to the child's initial receipt of services; and

(Continued)

Students

SUBJECT: APPOINTMENT AND TRAINING OF COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE) MEMBERS (Cont'd.)

- i) A representative from the municipality of the preschool child's residence. Attendance of the appointee of the municipality is not required for a quorum.

Training

The training of qualified personnel is essential to the effective implementation of the Regulations of the Commissioner of Education regarding the education of all students with disabilities.

The Director of Special Education shall be responsible to the Superintendent for establishing administrative practices and procedures for training all District personnel responsible for carrying out the provisions of Part 200 of the Commissioner's Regulations as well as members of the Committee on Preschool Special Education.

Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Section 4410
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.2(b)(3) and 200.3

NOTE: Refer also to Policies #7613 -- The Role of the Board in Implementing a Student's Individualized Education Program
#7614 -- Preschool Special Education Program
#7631 -- Committee on Special Education/Subcommittee on Special Education Members

Students

**SUBJECT: STUDENT INDIVIDUALIZED EDUCATION PROGRAM (IEP):
DEVELOPMENT AND PROVISION**

Development of Individualized Education Program

The Board of Education directs that the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) shall have prepared a written statement (program) for each child with a disability.

Such an Individualized Education Program (IEP) will be developed by the CSE or CPSE upon referral, and reviewed or revised, whichever is appropriate, for every child with a disability at least annually or in the event that the program no longer appears to be appropriate to meet the student's needs and ability level.

The District shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Individual Evaluations

Unless a referral is withdrawn, an individual evaluation at no cost to the parent will be completed by the CSE/CPSE within sixty (60) calendar days of receiving written parental consent, unless:

- a) A student enrolls in the District after sixty (60) days and prior to a determination by the student's previous school district as to whether the student has a disability, but only if the new school district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and the new district agree to a specific timeframe for completion; or
- b) The parent or student repeatedly fails or refuses to produce the student for evaluation.

No student shall be required to obtain a prescription for a drug or other substance identified as a controlled substance by the federal Controlled Substances Act as a condition of receiving an evaluation.

The individual evaluation will include a variety of assessment tools and strategies, including information provided by the parent. The purpose of the evaluation is to gather relevant functional, developmental and academic information that may assist in determining whether the student is a student with a disability and the content of the student's IEP. This shall include information relating to enabling the student to participate and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities.)

(Continued)

Students

**SUBJECT: STUDENT INDIVIDUALIZED EDUCATION PROGRAM (IEP):
DEVELOPMENT AND PROVISION (Cont'd.)**

As part of any evaluation, a group that includes the CSE/CPSE and other qualified professionals, as appropriate, shall review existing evaluation data on the student including evaluations and information provided by the parents of the student, current classroom-based assessments, local or state assessments, classroom-based observations, and observations by teachers and related services providers.

On the basis of that review, and input from the student's parents, the group shall identify what additional data, if any, are needed to determine:

- a) Whether the student has or continues to have a disability;
- b) The present levels of academic achievement and related developmental needs of the student, including:
 1. Academic achievement, functional performance, and learning characteristics;
 2. Social development;
 3. Physical development; and
 4. Management needs.
- c) In the case of a reevaluation of a student, whether the student continues to need special education; and
- d) Whether any additions or modifications to the special education services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

If additional data are not needed, the District must notify the parents of that determination and the reasons for it and of the right of the parents to request an assessment to determine whether, for purposes of services provided in accordance with law and Commissioner's Regulations, the student continues to be a student with a disability and to determine the student's educational needs. The District is not required to conduct the assessment unless requested to do so by the student's parents.

Individual Re-evaluations

A Committee on Special Education (CSE/CPSE) shall arrange for an appropriate re-evaluation of each student with a disability:

(Continued)

Students

**SUBJECT: STUDENT INDIVIDUALIZED EDUCATION PROGRAM (IEP):
DEVELOPMENT AND PROVISION (Cont'd.)**

- a) If the District determines that the educational or related services needs, including improved academic achievement and functional performance of the student warrant re-evaluation;
- b) If the student's parent or teacher request a re-evaluation;
- c) At least once every three (3) years.

A re-evaluation shall not be conducted more frequently than once a year unless the parent and the District representative appointed to the CSE/CPSE agree otherwise.

The re-evaluation will be conducted by a multi-disciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of the student's disability. The re-evaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education. The results of any re-evaluations must be addressed by the CSE/CPSE in reviewing, and as appropriate, revising the student's IEP.

To the extent possible, the District shall encourage the consolidation of re-evaluation meetings for the student and other CSE/CPSE meetings for the student.

Amendments to the IEP

Amendments to the IEP made after the annual review by the CSE may be made by rewriting the IEP or by developing a written document to amend or modify the student's current IEP, provided that:

- a) The parent receives a prior written notice of any changes to the IEP; and
- b) The parent receives any documents that amend the IEP, or upon request, a revised copy of the entire IEP with the amendments incorporated.

Use of Recording Equipment at IEP Meetings

The Board of Education shall allow recording equipment to be used at meetings regarding individualized education programs for students with disabilities.

Provision of Individualized Education Program

The Board of Education directs that the Superintendent/designee(s) establish administrative practices and procedures to ensure that each regular education teacher, special education teacher, related service provider and/or other service provider who is responsible for the implementation of a

(Continued)

Students

**SUBJECT: STUDENT INDIVIDUALIZED EDUCATION PROGRAM (IEP):
DEVELOPMENT AND PROVISION (Cont'd.)**

student's IEP is provided a paper or electronic copy of such student's IEP (including amendments to the IEP) prior to the implementation of such program. For purposes of this policy, "other service provider" means a representative of another public school district, charter school, Board of Cooperative Educational Services (BOCES) or school enumerated in Articles 81, 85 or 89 of the Education Law where the student receives or will receive IEP services. Further, the District will designate at least one school official who shall be responsible for maintaining a record of the personnel who have received IEP copies for each student.

Any copy of a student's IEP shall remain confidential in compliance with the Individuals with Disabilities Education Act, the Family Educational Rights and Privacy Act, and District policy regarding confidentiality of student records; and shall not be disclosed to any other person other than the parent of such student, except in accordance with federal and state laws and/or regulations. Appropriate training and information will be provided to designated school personnel, as applicable, to ensure the confidentiality of such information. Procedures will be established to ensure that copies of students' IEPs are stored in secure locations and retrieved or destroyed when such professionals are no longer responsible for implementing a student's IEP.

The Chairperson of the CSE, CSE subcommittee, or CPSE shall designate for each student one or, as appropriate, more than one professional employee of the School District with knowledge of the student's disability and education program who will be responsible to, prior to the implementation of the IEP, inform each regular education teacher, special education teacher, related service provider, other service provider, supplementary school personnel (i.e., a teaching assistant or a teacher aide as defined in Commissioner's Regulations), and other provider and support staff person of his/her responsibility to implement the recommendations on a student's IEP, including the responsibility to provide specific accommodations, program modifications, supports and/or services for the student in accordance with the IEP. In selecting the professional staff person(s), the Chairperson could select him/herself for this responsibility, another administrator, or a teacher, related service provider or other professional based on the particular circumstances of the student's disability and education program.

The School District shall also ensure that each teaching assistant, teacher aide and each other provider responsible for assisting in the implementation of a student's IEP has *the opportunity to review* a copy of the student's IEP (including amendments) prior to the implementation of such program. Further, each teaching assistant, teacher aide and such other provider responsible for assisting in the implementation of a student's IEP shall have *ongoing access* to a copy of the IEP, which may be the copy provided to the student's special education teacher or the teacher or related service provider under whose direction the supplementary school personnel or other provider works. However, the District may, at its discretion, provide a copy of the IEP to teaching assistants and/or teacher aides.

A copy of a student's IEP shall be provided to the student's parents at no cost to the student's parents.

(Continued)

Students

**SUBJECT: STUDENT INDIVIDUALIZED EDUCATION PROGRAM (IEP):
DEVELOPMENT AND PROVISION (Cont'd.)**

Individuals with Disabilities Education Improvement Act of
2004 [Public Law 108-446 Section 615(k)(1)]
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Sections 1400 et seq.
21 United States Code (USC) 812(c)
Education Law Articles 81, 85 and 89
Education Law Sections 3208 and 4402(7)
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.1(hh), 200.2(b)(11), 200.4(b)(4), 200.4(e)(3),
200.4(f) and 200.16(e)(6)

Adoption Date: 01-15-08

Students

SUBJECT: TRANSITION SERVICES

Beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), and updated annually, the student's IEP must include:

- a) A statement of the student's needs taking into account the student's strengths, preferences and interests as they relate to transition from school to post-school activities;
- b) Appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;
- c) A statement of transition service needs that focuses on the student's courses of study, such as participation in advanced-placement courses or a vocational educational program;
- d) Needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
- e) A statement of the responsibilities of the District and participating agencies, when applicable, for the provision of such services and activities, before the student leaves the school setting, that promote movement from school to post-school opportunities.

As defined by the Commissioner's Regulations, transition services means a coordinated set of activities for a student with a disability, designed within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate movement from school to post-school activities. Post-school activities include, but are not limited to, post-secondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's strengths, preferences and interests and shall include needed activities in the following areas:

- a) Instruction;
- b) Related services (the term "related services" does not include a medical device that is implanted, or the replacement of such device);
- c) Community experiences;

(Continued)

Students

SUBJECT: TRANSITION SERVICES (Cont'd.)

- d) The development of employment and other post-school adult living objectives; and
- e) When appropriate, acquisition of daily living skills and functional vocational evaluation.

Individuals with Disabilities Education Improvement Act of 2004 [Public Law 108-446 Section 614(a)]
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Sections 1400 et seq.
34 Code of Federal Regulations (CFR) Sections 300.343, 300.347 and 300.348
Education Law Section 4401
8 New York Code of Rules and Regulations (NYCRR) Sections 200.1(qq), 200.1(fff), 2004.(d)(2)(ix), and 200.5(c)(2)(vii)

Students

SUBJECT: EXTENDED SCHOOL YEAR (JULY/AUGUST) SERVICES AND/OR PROGRAMS

The School District shall provide, directly or by contract, special services and/or programs during July and August (i.e., extended school year) to those students whose disabilities are severe enough to exhibit the need for a structured learning environment of twelve (12) months duration in order to prevent substantial regression as determined by the Committee on Special Education (CSE)/Committee on Preschool Special Education (CPSE).

The CSE/CPSE must determine whether a student requires extended school year special education services and/or programs in order to prevent substantial regression. Substantial regression would be indicated by a student's inability to maintain developmental levels due to a loss of skill, set of skill competencies or knowledge during the months of July and August. In accordance with Commissioner's Regulations, students must be considered for twelve (12) month special services and/or programs to prevent substantial regression if they are:

- a) Students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention and who are placed in special classes; or

Preschool students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention;

- b) Students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment and are placed in special classes; or

Preschool students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment;

- c) Students who are recommended for home and/or hospital instruction whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment; or

Preschool students whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment in the home;

- d) Students, including preschool students, whose needs are so severe that they can be met only in a seven (7) day residential program; or

(Continued)

Students

SUBJECT: EXTENDED SCHOOL YEAR (JULY/AUGUST) SERVICES AND/OR PROGRAMS (Cont'd.)

- e) Students who are not in programs as described in subparagraphs (a) through (d) above during the period from September through June and who, because of their disabilities, exhibit the need for a twelve (12) month special service and/or program provided in a structured learning environment of up to twelve (12) months duration in order to prevent substantial regression as determined by the CSE; or

Preschool students who are not described in subparagraphs (a) through (d) above whose disabilities are severe enough to exhibit the need for a structured learning environment of twelve (12) months duration to prevent substantial regression as determined by the Preschool Committee on Special Education (CPSE).

For students eligible for twelve (12) month service and/or program, the student's Individualized Education Program (IEP) shall indicate the identity of the provider of services during the months of July and August, and, for preschool students determined by the CPSE to require a structured learning environment of twelve (12) months duration to prevent substantial regression, a statement of the reasons for such recommendation.

The IEP shall indicate the projected date of the review of the student's need for such services and shall indicate the recommended placement.

Any District plan to operate a July/August program must be approved by the State Education Department in accordance with applicable laws, regulations, procedures, and/or guidelines.

Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446 Section 614(a)

Individuals with Disabilities Education Act (IDEA), 20 USC Section 1400 et seq.

Education Law Section 4408

8 NYCRR Part 110 and Sections 200.1(qq), 200.4(d)(2)(x), 200.5(b)(1)(iii), 200.6(j), and 200.16(i)(3)(v)

Adoption Date: January 26, 2015

Students

SUBJECT: TRANSFER STUDENTS WITH DISABILITIES

To facilitate the transition of students with disabilities transferring into or out of the District the District shall:

- a) As the district of origin take reasonable steps to promptly respond to all requests from the new school district.
- b) As the new school district take reasonable steps to promptly obtain the student's records from the previous school, including the IEP, supporting documents and any other records relating to the provision of special education services.
- c) Provide to a student with a disability (as defined in Section 200.1(zz) of Commissioner's Regulations) who transfers school districts within the same academic year a free appropriate education including services comparable to those described in the student's previous IEP.
 1. For transfers within New York State, the previously held IEP will be followed in consultation with the parents until the District adopts the previously held IEP or develops, adopts and implements a new IEP consistent with federal and State law and regulation.
 2. For transfers from outside New York State, in consultation with the parents the previously held IEP will be followed until the District conducts an evaluation and, if appropriate, develops a new IEP consistent with federal and State law and regulation.

Individuals with Disabilities Education Improvement Act of
2004 [Public Law 108-446 Section 614(a)]
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Sections 1400 et seq.
8 New York Code of Rules and Regulations (NYCRR)
Section 200.4(eX8)

Students

**SUBJECT: IDENTIFICATION AND REGISTER OF CHILDREN WITH DISABILITIES
(CHILD FIND)**

The District will locate, identify, and evaluate all students with disabilities who reside within its boundaries, including homeless children, children who are wards of the state, home-schooled children, and children attending private schools. Further, it is the policy of the Board of Education to conduct a census in order to locate and identify all children with disabilities within the District under the age of twenty-one (21), including those children as described above, and to establish a register of such students entitled to attend school or receive preschool services.

The Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) will maintain and annually revise the register of such students and others referred to the committee as possibly having a disability, as appropriate. In addition, census data shall be reported by October 1 to the CSE or CPSE as appropriate.

The District understands that its Child Find obligations have been expanded to include notification to every parent or person in parental relation, upon enrollment of their child in the District, of their rights regarding referral and evaluation for the purposes of special education services or programs pursuant to applicable federal and state laws. The notification will contain the name and contact information for the chairperson of the District's CSE or other individual who is charged with processing referrals to the committee in the District. The District may, in its discretion, provide such notice by directing parents or persons in parental relation to obtain information located on the State Education Department's website relating to a parent's guide to special education in New York State for children ages three (3) through twenty-one (21).

Any student suspected of having a disability should be referred to the applicable CSE or CPSE for evaluation and possible identification as a student with a disability.

Nonpublic School Students with Disabilities Who are Parentally Placed

If the District boundaries encompass a nonpublic school, the District, as the district of location, must develop and implement methods to identify, locate, and ensure the identification and evaluation of students with disabilities who have been, or are going to be, parentally placed in such nonpublic school.

The child find activities must be similar to those for students with disabilities in public schools and must be completed in a time period comparable to that for other students attending public schools in the School District.

As the district of location, the District must also consult with the appropriate representatives of the nonpublic schools and parents of parentally placed nonpublic school students to determine an accurate count of students with disabilities attending such schools and receiving special education services.

(Continued)

Students

**SUBJECT: IDENTIFICATION AND REGISTER OF CHILDREN WITH DISABILITIES
(CHILD FIND) (Cont'd.)**

These requirements only pertain to students with disabilities parentally placed in elementary and secondary nonpublic schools, not to parental placements of preschool children with disabilities in private day care or preschool programs; or to CSE placements of students with disabilities in approved private schools, Special Act School Districts, state-supported or state-operated schools; or to charter schools.

Individuals with Disabilities Education Act (IDEA), 20 USC Section 1400 et seq.
34 CFR Part 300
Education Law Sections 3240-3242, 3602-c(2)(a), 4401-a, 4402, 4404, 4405 and 4410-6
8 NYCRR Sections 200.2(a) and 200.4

NOTE: Refer also to Policies #7130 -- Entitlement to Attend - Age and Residency
#7140 -- School Census

Adoption Date: October 26, 2015

Students

SUBJECT: ADDITIONAL PROCEDURES FOR IDENTIFYING STUDENTS WITH LEARNING DISABILITIES

In accordance with Regulations of the Commissioner of Education, the District will follow all applicable procedures for referral and evaluation of students suspected of having a learning disability, including the additional requirements enumerated in Commissioner's Regulations Section 200.4(j) for identifying students with learning disabilities and determining eligibility for special education.

Per Commissioner's Regulations, *learning disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, as determined in accordance with Section 200.4(j). The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.

The individual evaluation must include information from an observation of the student in routine classroom instruction and monitoring of the student's performance that was either done before the student was referred for an evaluation or from an observation of the student's academic performance in the regular classroom after the student has been referred for an evaluation and parental consent is obtained.

The determination of eligibility for special education for a student suspected of having a learning disability must be made by the Committee on Special Education (CSE), which shall include the student's regular education teacher and at least one person qualified to conduct individual diagnostic examinations of students (such as a school psychologist, teacher of speech and language disabilities, speech/language pathologist or reading teacher).

To ensure that underachievement in a student suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the CSE must, as part of the evaluation procedures, consider whether the student has received appropriate instruction in reading and mathematics in the regular education setting by qualified personnel. The CSE must also consider data-based documentation of repeated assessments of achievement at reasonable intervals.

A student may be determined to have a learning disability if, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve adequately in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, mathematics problem solving; and the student either does not make sufficient progress when using a process based on the student's response to scientific, research-based intervention (Response to Intervention) or the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both as determined by the CSE using appropriate assessments in accordance with Commissioner's Regulations.

Written Report/Written Certification by CSE

When determining eligibility for a student suspected of having a learning disability, the CSE shall prepare a written report containing a statement of all the factors enumerated in Commissioner's Regulations.

(continued)

Students

**SUBJECT: ADDITIONAL PROCEDURES FOR IDENTIFYING STUDENTS WITH
LEARNING DISABILITIES**

Each CSE member must certify in writing whether the above referenced written report reflects the member's conclusion regarding the eligibility determination. If the report does not reflect the member's conclusion, the CSE member must submit a separate statement presenting his/her conclusions.

8 New York Code of Rules and Regulations (NYCRR)
Sections 100.2(ii), 200.1(pp), 200.1(zz)(6), 200.4(b),
200.4(c), 200.4(j), and 200.5(b)

Students

SUBJECT: PARENT INVOLVEMENT FOR CHILDREN WITH DISABILITIES

The Board of Education recognizes the rights of the parent/guardian to be fully informed of all information relevant to the identification, or change in identification, evaluation and educational placement of a child with a disability.

All due process procedures for parents/guardians and children in the Commissioner's Regulations shall be observed by the School District.

Definition of Parent

Parent means a birth or adoptive parent, a guardian, a person in parental relationship to the child as defined in Education Law section 3212, an individual designated as a person in parental relation pursuant to Title 15-A of the General Obligations Law including an individual so designated who is acting in the place of a birth or adoptive parent (including a grandparent, stepparent or other relative with whom the child resides), or a surrogate parent who has been appointed in accordance with section 200.5(n) of Commissioner's Regulations. The term does not include the State if the student is a ward of the State.

A foster parent may act as a parent unless State law, regulations or contractual obligations with a State or local entity prohibit the foster parent from acting as a parent.

Unless a judicial decree identifies a specific person(s) to act as the parent or make educational decisions for the student, if one or more parties is qualified to act as a parent, the birth or adoptive parent is presumed to be the parent unless they do not have the legal authority to do so.

Surrogate Parents

It is the duty of the School District to determine whether a child needs a surrogate parent and to assign a surrogate parent in the manner permitted under New York State law. This determination shall be completed within a reasonable time following the receipt of a referral for an initial evaluation or re-evaluation.

In the event that no parent or guardian for a child with a disability can be identified; or after reasonable efforts the whereabouts of the parent or guardian cannot be determined; or the student is an unaccompanied homeless youth; or the child with a disability is a ward of the State and does not have a "parent" as defined above; or the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law; the Board shall assign an individual to act as a surrogate for the parents or guardians.

Alternatively, the surrogate parent may be appointed by a judge overseeing the child's case.

(Continued)

Students

SUBJECT: PARENT INVOLVEMENT FOR CHILDREN WITH DISABILITIES (Cont'd.)

The person selected as a surrogate shall have no interest that conflicts with the interest of the child he/she represents, and shall have knowledge and skills that ensure adequate representation of the child.

Prior Written Notice

Prior written notice must be given to parents of a student with a disability a reasonable time before the District proposes to, or refuses to, initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. Prior written notice must also be provided informing the parents when no additional data is required to determine the student's educational needs, the reasons for this determination and their right to request an assessment.

If the prior written notice relates to a proposed action that also requires parental consent, the District must give notice at the same time it requests parental consent. The prior written notice will contain all elements required by Commissioner's Regulations.

A parent may elect to receive prior written notice and other required notifications by electronic mail (e-mail) communication if the District makes this option available.

Parental Consent

In accordance with due process, a parent or guardian of a special education student or a student suspected of having a disability must provide informed consent before the School District can take certain actions.

Consent for Evaluations

The parent or guardian must provide informed consent to the initial evaluation, or reevaluations in accordance with law and/or regulations. If a parent does not provide consent for an initial evaluation, the School District *may* pursue the evaluation by commencing a due process hearing to override the refusal to provide consent.

Parental consent for a reevaluation is not needed if the District can demonstrate that it has taken reasonable measures to obtain consent, but the parents or guardians have failed to respond.

Consent for the Initial Provision of Services

Parental consent is also required for the initial provision of special education services. Consent for an initial evaluation does not constitute consent for the initial provision of services. If a parent does not provide consent for the initial provision of services, the School District *shall not* provide the special education program and services to the student and shall not use the due process procedures to

(Continued)

Students

SUBJECT: PARENT INVOLVEMENT FOR CHILDREN WITH DISABILITIES (Cont'd.)

challenge the parent's refusal to consent. The School District shall not be considered to be in violation of the requirements to provide a free appropriate public education (FAPE), shall not be required to convene a meeting of the committee on special education or develop an IEP.

Consent for Other Actions

Prior written consent must also be provided:

- a) Prior to releasing any personally identifiable information; and
- b) Prior to each time the District proposes to access a parent's private insurance.

Consent for an Unaccompanied Homeless Youth

Consent may be provided by a surrogate parent. However, until a surrogate parent is appointed, consent may be provided on a temporary basis by an employee of a temporary housing facility operated or approved by a local social services district or a residential facility for runaway and homeless youth.

Consent for a Ward of the State

A ward of the State means a child or youth under the age of twenty-one (21):

- a) Who has been placed or remanded pursuant to Social Services Law or the Family Court Act or freed for adoption pursuant to Social Services Law; or
- b) Who is in the custody of the Commissioner of Social Services or the Office of Children and Family Services; or
- c) Who is a destitute child under Social Services Law.

In the event that a child is a ward of the State, the School District shall make reasonable efforts to obtain the informed consent from the parent of the child for an initial evaluation to determine whether the child is a child with a disability.

The School District is not required to obtain informed consent if:

- a) Despite reasonable efforts to do so, the School District cannot discover the whereabouts of the parent of the student, including consulting with the agency responsible for the care of the student; or
- b) The rights of the parents of the student have been terminated in accordance with State law; or

(Continued)

Students

SUBJECT: PARENT INVOLVEMENT FOR CHILDREN WITH DISABILITIES (Cont'd.)

- c) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law.

Procedural Safeguards Notice

The School District will provide the procedural safeguards notice prescribed by the Commissioner of Education to the parents of a student with a disability at least one time per year and also:

- a) Upon initial referral or parental request for evaluation;
- b) Upon the first filing of a due process complaint notice to request mediation or an impartial hearing; and
- c) Upon request by a parent.

Individuals with Disabilities Education Improvement Act of
2004 (Public Law 108-446) Section 614(a)
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Sections 3212, 4005, 4202, 4401 and 4402
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.1 and 200.5

Students

**SUBJECT: DUE PROCESS COMPLAINTS; SELECTION AND BOARD APPOINTMENT
OF IMPARTIAL HEARING OFFICERS****Due Process Complaints**

The District is committed to making every effort to amicably resolve disputes regarding educational programs for students with disabilities. In the event such disputes cannot otherwise be resolved, either a parent or the District may file a due process complaint challenging the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to such student. The complainant may not have an impartial due process hearing until the complainant, or the attorney representing the complainant, files a due process complaint notice that meets the requirements set forth in law for such notice. Any and all due process hearings will be conducted in a manner consistent with the timelines and procedures set forth in law and regulation.

Except as otherwise provided by law, all requests for impartial due process hearings must be submitted within two (2) years of the date the parent or the District knew or should have known about the alleged action forming the basis of the complaint. Upon receipt or filing of the due process complaint notice, the District will provide a procedural safeguards notice to the parents. The District will also inform parents in writing of the availability of mediation and of any free or low-cost legal and other relevant services available in the area.

An impartial due process hearing will be conducted at a time and location reasonable and convenient to the parent and student involved. The hearing will be closed to the public unless the parent requests otherwise.

A student whose education is the subject of a due process complaint will remain in his/her current placement during the pendency of the impartial due process hearing unless both parties agree or as otherwise permitted by law.

All issues relating to a request for and conduct of an impartial due process hearing must be kept confidential by all District staff.

Resolution Process

Prior to the opportunity for an impartial due process hearing, the District will convene a meeting with the parents and the relevant member or members of the committee on special education or committee on preschool special education who have specific knowledge of the facts identified in the complaint. Such meeting will provide the parents with an opportunity to discuss their complaint and the facts that form the basis of the complaint, and an opportunity to resolve the complaint with the District. The District will take steps to ensure that one or both of the parents of the student with a disability are present at the resolution meeting, and will notify parents of the meeting early enough to ensure that they have the opportunity to attend. The resolution meeting will be at a mutually agreed

(Continued)

Students

**SUBJECT: DUE PROCESS COMPLAINTS; SELECTION AND BOARD APPOINTMENT
OF IMPARTIAL HEARING OFFICERS (Cont'd.)**

upon time and place, and in a location that is physically accessible to the parents. The District will ensure that all resolution meetings conform to the requirements set forth in the Regulations of the Commissioner of Education.

The parents and the District may agree, in writing, to waive the resolution process or agree to use the mediation process to resolve the dispute.

Selection and Board Appointment of Impartial Hearing Officers

In the event a due process complaint notice is filed pursuant to the Individuals with Disabilities in Education Act (IDEA), the Board of Education will arrange for an impartial due process hearing to be conducted. In such instances, the Board will immediately-but not later than two (2) business days after receipt of the due process complaint notice or mailing of the due process complaint notice to the parent-initiate the process to select an impartial hearing officer (IHO) through a rotational selection process. To expedite this process, the Board may designate one (1) or more of its members to appoint the IHO on its behalf.

The District will utilize the New York State Education Department's Impartial Hearing Reporting System (IHRS) to access the alphabetical list of the names of each IHO certified in New York State and available to serve in the District. The appointment of an IHO will be made only from such list and in accordance with the alphabetical rotation selection process and the timelines and procedures established by the Commissioner of Education. The District will record and report to the State Education Department required information relating to the selection of IHOs and the conduct of impartial due process hearings according to the manner and schedule specified by the Department.

The District will be responsible for compensating the IHO for prehearing, hearing and post-hearing activities at the rate agreed upon at the time of the IHO's appointment. The District will also reimburse the IHO for certain travel and other hearing-related expenses (e.g., duplication and telephone costs) pursuant to an annually determined schedule.

Administrative procedures will be developed governing the implementation of this policy.

Individuals with Disabilities Education Act (IDEA), 20 USC Section 1400 et seq.
34 CFR Part 300
Education Law Sections 4005, 4202, 4404(1) and 4410(7)
8 NYCRR Sections 200.2 and 200.5

NOTE: Refer also to Policies #7660 -- Parent Involvement for Children with Disabilities
#7690 -- Special Education Mediation
#7313 -- Suspension of Students

Adoption Date: February 23, 2015

Students

SUBJECT: INDEPENDENT EDUCATIONAL EVALUATIONS

Parents of children with disabilities have the right under Federal and State regulations to obtain an independent evaluation at public expense under certain conditions, Regulatory standards are outlined in New York State Regulations of the Commissioner of Education Part 200.5(g). Additionally, the Federal Regulations (34 Code of Federal Regulations [CFR] 300.503) specify requirements for an independent evaluation.

Administrative regulations on independent evaluations will be developed in order to explain the rights of parents and the responsibilities of school districts with regard to independent evaluations, and also to avoid any misunderstandings.

The cost to the district will not exceed \$1,700 for a comprehensive IEE that would meet the requirements under the Commissioner's Regulations. The district will permit parents to select any independent evaluator who is in the public phone book within 150 miles radius at the time the parent makes the request of the district, as long as the qualified professional selected by the parent is a New York State certified and/or licensed evaluator.

34 Code of Federal Regulations (CFR)

Sections 300.12 and 300.503

8 New York Code of Rules and Regulations NYCRR)

Sections 200.1(z) and 200.5(g)

Adoption Date: 12-15-14

Students

SUBJECT: SPECIAL EDUCATION MEDIATION

The District will offer mediation to resolve any disputes involving any matter for which an impartial due process hearing may be brought, including matters arising prior to the filing of a request for an impartial hearing.

Such mediation shall be conducted by mediators furnished by a Community Dispute Resolution Center who are not employees of a State educational agency providing direct services to the student who is the subject of the mediation process or a school district or program serving students with disabilities. Mediators may not have a personal or professional interest which would conflict with their objectivity in the mediation process and should be knowledgeable in laws and regulations relating to the provision of special education services.

Parents or persons in parental relation to students suspected of or having disabilities will receive written notice of the availability of the mediation program each time they receive notice of their entitlement to the impartial hearing procedures in accordance with Federal and State law and regulations. If the parent and District agree, alternative means of meeting participation may be utilized, such as video conferences and conference calls.

Discussions during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceedings. The parties may be required to sign a confidentiality pledge prior to the commencement of the process.

If resolution to the complaint is reached through mediation, the parent and the representative of the District who has the authority to bind the District will execute a legally binding written agreement specifying the resolution and stating that all discussions occurring during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. If the written agreement is inconsistent with the student's current IEP, the IEP must be immediately amended to reflect the mediation agreement.

The mediation process is voluntary and will not operate to diminish or limit any rights provided for in law, including the right of the parent or person in parental relation to request an impartial hearing subsequent to mediation. Parents or persons in parental relation to students suspected of or having disabilities continue to have full access to all rights, including due process procedures, provided for in federal and state laws and regulations. Similarly, mediation shall not be construed to limit a parent or person in parental relation from requesting an impartial hearing without having first utilized mediation procedures set forth in Education Law.

(Continued)

Students

SUBJECT: SPECIAL EDUCATION MEDIATION (Cont'd.)

Individuals with Disabilities Education Improvement Act of
2004 (Public Law 108-446) Section 614(a)
Individuals with Disabilities Education Act (IDEA)
20 United States Code (USC) Section 1400 et seq.
34 Code of Federal Regulations (CFR) Part 300
Education Law Sections 4005, 4202 and 4404-a
Judiciary Law Section 849a
8 New York Code of Rules and Regulations (NYCRR)
Sections 200.1 and 200.5

Adoption Date: 01-26-09

Alternative Formats for Instructional Materials

Preference in the purchase of instructional materials will be given to vendors who agree to provide materials in a usable alternative format (i.e., any medium or format, other than a traditional print textbook, for presentation of instructional materials that is needed as an accommodation for each student with a disability, including students requiring Section 504 Accommodation Plans, enrolled in the School District). Alternative formats include, but are not limited to, Braille, large print, open and closed captioned, audio, or an electronic file in an approved format as defined in Commissioner's Regulations.

As required by federal law and New York State Regulations, the District has adopted the National Instructional Materials Accessibility Standard (NIMAS) to ensure that curriculum materials are available in a usable alternative format for students with disabilities. Each school district has the option of participating in the National Instructional Materials Access Center (NIMAC). Whether a district does or does not participate in NIMAC, the district will be responsible to ensure that each student who requires instructional materials in an alternate format will receive it in a timely manner and in a format that meets NIMAS standards. The New York State Education Department (NYSED) recommends that school districts choose to participate in NIMAC, because this national effort to centralize the distribution of instructional materials in alternate formats will help guarantee timely provision of such materials to students.

For school districts, Boards of Cooperative Educational Services (BOCES), State-operated schools, State-supported schools and approved private schools that choose to participate in NIMAC, **contracts with publishers executed on and after December 3, 2006** for textbooks and other printed core materials *must* include a provision that requires the publisher to produce NIMAS files and send them to the NIMAC (this will not add any cost to the contract).

For more information regarding NIMAC including model contract language, Steps for Coordinating with NIMAC and an IDEA Part B Assurances Application, see website: <http://www.vesid.nysed.gov/specialed/publications/persprep/NIMAS.pdf>

Computer Software Purchases

Software programs designated for use by students in conjunction with computers of the District shall meet the following criteria:

- a) A computer program which a student is required to use as a learning aid in a particular class; and
- b) Any content-based instructional materials in an electronic format that are aligned with State Standards which are accessed or delivered through the internet and based on a subscription model. Such electronic format materials may include a variety of media assets and learning tools including video, audio, images, teacher guides, and student access capabilities as such terms are defined in Commissioner's Regulations.



November 2015

Special Education Field Advisory

From: James P. DeLorenzo

A handwritten signature in black ink that reads "James P. DeLorenzo".

Subject: **Blueprint for Improved Results for Students with Disabilities**

The New York State Education Department (NYSED) has released its **Blueprint for Improved Results for Students with Disabilities**. This Blueprint was developed in consultation with stakeholders and is consistent with the mission of NYSED, Office of Special Education - supported by all offices within NYSED - to ensure that students with disabilities have the opportunities to benefit from high quality instruction, to reach the same standards as all students, and to leave school prepared to successfully transition to post-school learning, living and employment. As rigor and expectations for all students in New York State have increased, policy and practices must be adjusted to support students with disabilities to meet these challenges.

The principles in the Blueprint were carefully selected as those that are essential to achieve the goal of improved results. This statewide framework is intended to clarify expectations for administrators, policy makers and practitioners to improve instruction to prepare students with disabilities for success beginning in the preschool years to lay the foundation for post-secondary readiness and success.

While there are many components or key principles that are important for students with disabilities and their families, this Blueprint focuses on seven core principles and practices supported by research for all students with disabilities. Improving results for students with disabilities requires a renewed focus on these core principles.

1. *Students engage in self-advocacy and are involved in determining their own educational goals and plan.*
2. *Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.*

3. *Teachers design, provide, and assess the effectiveness of specially designed instruction to provide students with disabilities with access to participate and progress in the general education curriculum.*
4. *Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.*
5. *Schools provide multi-tiered systems of behavioral and academic support.*
6. *Schools provide high quality inclusive programs and activities.*
7. *Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.*

This Blueprint will be used by the State to develop State policy and guidance and for schools to review their policies and practices to support students with disabilities. Resources to assist school districts in this work will be posted on the Department's website shortly; please be advised the website is currently under construction.

School districts and schools are asked to use these principles to review practice and to identify areas where improvement is needed. The Department will post a Blueprint self-assessment tool to assist schools with this work.

A copy of the Blueprint with key principles and evidence statements is attached. If you have any questions regarding the Blueprint, you may contact the Office of Special Education at (518) 473-2878 and/or the Regional Special Education Technical Assistance Support Center (RSE-TASC) in your region of the State.

Attachment



New York State
EDUCATION DEPARTMENT
Knowledge › Skill › Opportunity



BLUEPRINT FOR IMPROVED RESULTS FOR STUDENTS WITH DISABILITIES

Office of Special Education

Students engage in self-advocacy and are involved in determining their own educational goals and plan.

Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.

Teachers design, provide, and assess the effectiveness of specially-designed instruction to provide students with disabilities with access to participate and progress in the general education curriculum.

Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.

Schools provide multi-tiered systems of behavioral and academic support.

Schools provide high-quality inclusive programs and activities.

Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.

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BLUEPRINT FOR IMPROVED RESULTS FOR STUDENTS WITH DISABILITIES

The mission of the New York State Education Department (NYSED), Office of Special Education, – supported by all offices within NYSED – is to ensure that students with disabilities have opportunities to benefit from high-quality instruction, to reach the same standards as all students, and to leave school prepared to successfully transition to post-school learning, living and working. Through this process, there are essential and fundamental procedural rights and protections afforded by federal and State law both to parents and students with disabilities.

The following principles were selected, in consultation with stakeholders, as a statewide framework of expectations to lay the foundation for improved instruction and results for students with disabilities. References to students with disabilities within this document includes preschool students with disabilities and school-age students with any of the 13 disability categories of autism, blindness, deafness, deaf-blindness, emotional disabilities, hearing impairment, intellectual disability, orthopedic impairments, multiple disabilities, health impairments, speech and language impairment, traumatic brain injury and visual impairment.

While there are many other components or key principles that are important in the education of students with disabilities, this Blueprint focuses on seven research and evidence-based core principles and practices for all students with disabilities. Improving results for students with disabilities requires a renewed focus on these core principles. Underlying these principles are the following essential understandings.

- Communities, boards of education, district and school leaders must provide systemic supports and professional development for teachers to meet the needs of students with disabilities, including appropriate identification and ensuring classrooms have necessary supports, rigorous and relevant learning environments and classroom and school-wide approaches are created to maintain a positive climate.
- School principals and special education administrators are fundamental in their roles as instructional leaders for students with disabilities.
- All teachers are teachers of students with disabilities and every teacher needs to be skilled in how to support and provide differentiated and specially-designed instruction to students with disabilities.
- Students with disabilities must be held to high expectations and given the appropriate supports and services to meet those high expectations.
- Students and parents of students with disabilities need information and support to be meaningfully involved in the special education process.
- Students with disabilities should participate, to the maximum extent possible, in making recommendations for supports and services needed for their academic success and to meet their post-secondary transition goals.

Blueprint for Improved Results for Students with Disabilities ***Guiding Principles***

The following principles will be used by the State to review policy, technical assistance and other improvement activities. School districts and schools are encouraged to use these principles to review practice and to identify and act on areas where improvement is needed.

STUDENTS ENGAGE IN SELF-ADVOCACY AND ARE INVOLVED IN DETERMINING THEIR OWN EDUCATIONAL GOALS AND PLANS.

This is evident when:

- *Students participate in individualized education program (IEP) meetings.*
 - *Students create and monitor their progress towards academic and social goals.*
 - *Students engage in career planning and selection of courses of study to prepare them for post-secondary living, working and learning.*
-

PARENTS, AND OTHER FAMILY MEMBERS, ARE ENGAGED AS MEANINGFUL PARTNERS IN THE SPECIAL EDUCATION PROCESS AND THE EDUCATION OF THEIR CHILD.

This is evident when:

- *Parents report that they understand the special education process and their due process rights and actively participate in the development of their child's IEP.*
 - *Parents understand what their child is expected to know and be able to do to progress toward the State learning standards.*
 - *Parents and educators engage in frequent, respectful and open discussion of the educational needs of the student.*
 - *Families are invited into and feel welcome in all school environments.*
 - *Parents have the information they need about effective strategies to support their child's learning and support transition from school to post-school activities.*
-

TEACHERS DESIGN, PROVIDE AND ASSESS THE EFFECTIVENESS OF SPECIALLY-DESIGNED INSTRUCTION TO PROVIDE ACCESS FOR STUDENTS WITH DISABILITIES TO PARTICIPATE AND PROGRESS IN THE GENERAL EDUCATION CURRICULUM.

This is evident when:

- *All teachers are responsive to the pedagogical needs of students with disabilities.*
 - *All students receive instruction in curriculum aligned with the State's Learning Standards.*
 - *IEPs are developed in consideration of grade level standards.*
 - *IEPs are implemented and reviewed by educators, families and students to ensure that students are meeting their annual goals.*
 - *Special and general education teachers of students with disabilities engage in intentional collaborative lesson planning to meet the needs of each individual student with a disability.*
 - *Individual student data are used to inform and design instruction for students with disabilities to progress toward grade level standards.*
 - *Students with disabilities receive instructional materials in alternative formats at the same time as other students in the class receive their instructional materials.*
-

TEACHERS PROVIDE RESEARCH-BASED INSTRUCTIONAL TEACHING AND LEARNING STRATEGIES AND SUPPORTS FOR STUDENTS WITH DISABILITIES.

This is evident when:

- *All teachers develop lessons that allow multiple entry points and multiple modes of engagement for students with diverse needs.*
- *All teachers are knowledgeable and skilled in providing explicit instruction in academics and social-emotional learning.*
- *Students with disabilities are taught strategies for self-regulated learning across the content areas.*
- *All teachers continually assess students' understanding of lessons to improve and target instruction to student needs.*
- *Students' individualized needs for assistive technology devices and services are considered and accommodated.*

SCHOOLS PROVIDE MULTI-TIERED SYSTEMS OF BEHAVIORAL AND ACADEMIC SUPPORT.

This is evident when:

- *Educators collect and analyze student outcome data to plan, organize, deliver and evaluate the effectiveness of school-wide programs and instruction for all students.*
- *Educators disaggregate and analyze outcomes for students with disabilities to improve school-wide programs and interventions.*
- *Educators collect and analyze data to identify individual students in need of additional support.*
- *Evidence-based interventions are provided in a timely manner to students needing more support.*
- *Progress monitoring data are collected and inform decisions about the effectiveness and/or need for modification to those interventions.*

SCHOOLS PROVIDE HIGH-QUALITY INCLUSIVE PROGRAMS AND ACTIVITIES.

This is evident when:

- *Educators use the full continuum of services to ensure that students with disabilities are educated in the least restrictive environment.*
 - *The needs of the students are the primary consideration in the configuration of special education programs and services to be provided to students with disabilities.*
 - *District/school leaders allocate human and financial resources to support scheduling and planning time to ensure all students receive rigorous and appropriate instruction throughout the continuum of special education programs and services.*
 - *Students with disabilities in inclusive settings are provided the accommodations and explicit and specially-designed instruction needed to progress in the curriculum.*
-

SCHOOLS PROVIDE APPROPRIATE INSTRUCTION FOR STUDENTS WITH DISABILITIES IN CAREER DEVELOPMENT AND OPPORTUNITIES TO PARTICIPATE IN WORK-BASED LEARNING.

This is evident when:

- *Students are provided age-appropriate transition assessments, guidance, courses of study and work-based learning opportunities to meaningfully engage in early and ongoing career planning and exploration.*
 - *Students with disabilities and their families are provided early and clear information on graduation requirements.*
 - *Students with disabilities receive instruction toward the Career Development and Occupational Studies Learning Standards beginning in the early grades.*
 - *Students are provided instruction to develop lifelong learning skills such as self-advocacy, social-emotional skills, higher order thinking, employability skills and consumer and life skills.*
 - *Students and their families actively participate in the transition planning process.*
 - *Schools facilitate timely student and family connections to post-secondary supports and services through ACCES-VR and other State agency programs and services.*
-

Blueprint for Improved Results for Students with Disabilities- Guiding Principles Self-Assessment

Blueprint Guiding Principle:

- **Students engage in self-advocacy and are involved in determining their own educational goals and plans.**

Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
1. Students participate in individualized education program (IEP) meetings.				
2. Students create and monitor their progress towards academic and social goals.				
3. Students engage in career planning and selection of courses of study to prepare them for post-secondary living, working and learning.				

Blueprint Guiding Principle:

- **Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child.**

Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
4. Parents report that they understand of the special education process and their due process rights and actively participate in the development of their child's IEP.				
5. Parents understand what their child is expected to know and be able to do to progress toward the State learning standards.				
6. Parents and educators engage in frequent, respectful and open discussion of the educational needs of the student.				
7. Families are invited into and feel welcome in all school environments.				
8. Parents have the information they need about effective strategies to support their child's learning and support transition from school to post-school activities.				

Blueprint for Improved Results for Students with Disabilities- Guiding Principles Self-Assessment

Blueprint Guiding Principle:				
➤ Teachers design, provide and assess the effectiveness of specially designed instruction to provide access for students with disabilities to participate and progress in the general education curriculum.				
Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
9. All teachers are responsive to the pedagogical needs of students with disabilities.				
10. All students receive instruction in curriculum aligned with the State's Learning Standards.				
11. IEPs are developed in consideration of grade level standards.				
12. IEPs are implemented and reviewed by educators, families and students to ensure that students are meeting their annual goals.				
13. Special and general education teachers of students with disabilities engage in intentional collaborative lesson planning to meet the needs of each individual student with a disability.				
14. Individual student data are used to inform and design instruction for students with disabilities to progress toward grade level standards.				
15. Students with disabilities receive instructional materials in alternative formats at the same time as other students in the class receive their instructional materials.				

Blueprint for Improved Results for Students with Disabilities- Guiding Principles Self-Assessment

Blueprint Guiding Principle:

- **Teachers provide research-based instructional teaching and learning strategies and supports for students with disabilities.**

Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
16. All teachers develop lessons that allow multiple entry points and multiple modes of engagement for students with diverse needs.				
17. All teachers of students are knowledgeable and skilled in providing explicit instruction in academics and social-emotional learning.				
18. Students with disabilities are taught strategies for self-regulated learning across the content areas.				
19. All teachers continually assess students' understanding of lessons to improve and target instruction to student needs.				
20. Students' individualized needs for assistive technology devices and services are considered and accommodated.				

Blueprint Guiding Principle:

- **Schools provide multi-tiered systems of behavioral and academic support.**

Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
21. Educators collect and analyze student outcome data to plan, organize, deliver and evaluate the effectiveness of school-wide programs and instruction for all students.				
22. Educators disaggregate and analyze outcomes for students with disabilities to improve school-wide programs and interventions.				
23. Educators collect and analyze data to identify individual students in need of additional support.				
24. Evidence-based interventions are provided in a timely manner to students needing more support.				
25. Progress monitoring data are collected and inform decisions about the effectiveness and/or need for modification to those interventions.				

Blueprint for Improved Results for Students with Disabilities- Guiding Principles Self-Assessment

Blueprint Guiding Principle:				
➤ Schools provide high quality inclusive programs and activities.				
Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
26. Educators use the full continuum of services to ensure that students with disabilities are educated in the least restrictive environment.				
27. The needs of the students are the primary consideration in the configuration of special education programs and services to be provided to students with disabilities.				
28. District/school leaders allocate human and financial resources to support scheduling and planning time to ensure all students receive rigorous and appropriate instruction throughout the continuum of special education programs and services.				
29. Students with disabilities in inclusive settings are provided the accommodations and explicit and specially-designed instruction needed to progress in the curriculum.				

Blueprint Guiding Principle:				
➤ Schools provide appropriate instruction for students with disabilities in career development and opportunities to participate in work-based learning.				
Supporting Statements	Fully In Place	Partially In Place	Not In Place	Need More Info/PD
30. Students are provided age-appropriate transition assessments, guidance, courses of study and work-based learning opportunities to meaningfully engage in early and ongoing career planning and exploration.				
31. Students with disabilities and their families are provided early and clear information on graduation requirements.				
32. Students with disabilities receive instruction toward the Career Development and Occupational Studies Learning Standards beginning in the early grades.				
33. Students are provided instruction to develop lifelong learning skills such as self-advocacy, social-emotional skills, higher order thinking, employability skills and consumer and life skills.				
34. Students and their families actively participate in the transition planning process.				
35. Schools facilitate timely student and family connections to post-secondary supports and services through ACCES-VR and other State agency programs and services.				

Part B PROCEDURAL SAFEGUARDS NOTICE

New York State Education Department
PROCEDURAL SAFEGUARDS NOTICE
July 2017

Rights for Parents of Children with Disabilities, Ages 3-21

As a parent, you are a vital member of the Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE) in New York State. The CSE/CPSE is responsible for developing recommendations for special education programs and services for your child. You must be given opportunities to participate in the CSE/CPSE discussion and decision-making process about your child's needs for special education. The following information concerns procedural safeguards that are your legal rights under federal and State laws to be informed about and involved in the special education process and to make sure that your child receives a free appropriate public education (FAPE).

A copy of this procedural safeguards notice must be provided to you one time a year and:

- upon initial referral or your request for an evaluation of your child.
- whenever you request a copy.
- upon receipt of the first due process complaint in a school year requesting mediation or an impartial hearing.
- the first time in a school year when the school district receives a copy of a State complaint that you submitted to the New York State Education Department (NYSED).
- when a decision is made to suspend or remove your child for discipline reasons that would result in a disciplinary change in placement.

The Procedural Safeguards Notice has been adapted from the model form developed by the United States Department of Education (USDOE). Information was added regarding New York State's requirements.



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GENERAL INFORMATION**PRIOR WRITTEN NOTICE (NOTICE OF RECOMMENDATION)****34 CFR section 300.503; 8 NYCRR section 200.5(a) and (c)****Notice**

Your school district must give you written notice (provide you certain information in writing), whenever it:

1. proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
2. refuses to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of FAPE to your child.

If the prior written notice relates to an action by the school district that requires parental consent, the district will give notice at the same time they request such consent.

Content of notice

The written notice must:

1. describe the action that your school district proposes or refuses to take;
2. explain why your school district is proposing or refusing to take the action;
3. describe each evaluation procedure, assessment, record, or report your school district used in deciding to propose or refuse the action;
4. include a statement that you have protections under the procedural safeguards provisions in Part B of the Individuals with Disabilities Education Act (IDEA);
5. tell you how you can obtain a description of the procedural safeguards notice if the action that your school district is proposing or refusing is not an initial referral for evaluation;
6. include resources for you to contact for help in understanding Part B of the Individuals with Disabilities Education Act (IDEA);
7. describe any other choices that your child's Committee on Special Education (CSE) or Committee on Preschool Special Education (CPSE), considered and the reasons why those choices were rejected; and
8. provide a description of other reasons why your school district proposed or refused the action.

Notice in understandable language

The notice must be written in language understandable to the general public and be provided in your native language or other mode of communication you use, unless it is clearly not feasible to do so.

If your native language or other mode of communication is not a written language, your school district must ensure that:

1. the notice is translated for you orally by other means in your native language or other mode of communication;
2. you understand the content of the notice; **and**
3. there is written evidence that 1 and 2 have been met.

NATIVE LANGUAGE

34 CFR section 300.29; 8 NYCRR section 200.1(ff)

Native language, when used with an individual who has limited English proficiency, means the following:

1. The language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
2. In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

For a person with deafness or blindness, or for a person with no written language, the mode of communication is what the person normally uses (such as sign language, Braille, or oral communication).

ELECTRONIC MAIL

34 CFR section 300.505; 8 NYCRR section 200.5(a), (f), and (i)

If your school district offers parents the choice of receiving documents by e-mail, you may choose to receive the following by e-mail:

1. prior written notice (notice of recommendation);
2. procedural safeguards notice; **and**
3. notices related to a due process complaint.

PARENTAL CONSENT - DEFINITION

34 CFR section 300.9; 8 NYCRR section 200.1(l)

Consent

Consent means:

1. You have been fully informed in your native language or other mode of communication (such as sign language, Braille, or oral communication) of all information about the action for which you are giving consent;
2. You understand and agree in writing to that action, and the consent describes that action and lists the records (if any) that will be released and to whom; **and**

3. You understand that the consent is voluntary on your part and you may withdraw your consent at anytime.

Your withdrawal of consent does not negate (undo) an action that has occurred after you gave your consent and before you withdrew it.

PARENTAL CONSENT

34 CFR section 300.300; 8 NYCRR sections 200.5(a) and (b)

Consent for initial evaluation

Your school district cannot conduct an initial evaluation of your child to determine whether your child is eligible under Part B of IDEA to receive special education and related services without first providing you with prior written notice of the proposed action and without obtaining your consent as described under the heading **Parental Consent**.

Your school district must make reasonable efforts to obtain your informed consent for an initial evaluation to decide whether your child is a child with a disability.

Your consent for initial evaluation does not mean that you have also given your consent for the school district to start providing special education and related services to your child.

If your child is enrolled in public school or you are seeking to enroll your child in a public school and you have refused to provide consent or failed to respond to a request to provide consent for an initial evaluation and your child is school-age, your school district may, but is not required to, seek to conduct an initial evaluation of your child by utilizing mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. Your school district will not violate its obligations to locate, identify and evaluate your child if it does not pursue an evaluation of your child in these circumstances and your child can not receive special education services even if he/she would have been eligible.

Special rules for initial evaluation of wards of the State

If a child is a ward of the State and is not living with his/her parent, the school district does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

1. despite reasonable efforts to do so, the school district cannot find the child's parent;
2. the rights of the parents have been terminated in accordance with State law; **or**
3. a judge has assigned the right to make educational decisions and to consent for an initial evaluation to an individual other than the parent.

In New York State, ward of the state means a child or youth under the age of twenty-one:

1. who has been placed or remanded pursuant to section 358-a, 384 or 384-a of the Social Services Law, or article 3, 7, or 10 of the Family Court Act, or freed for adoption pursuant to section 383-c, 384, or 384-b of the Social Services Law; or
2. who is in the custody of the Commissioner of Social Services or the Office of Children and Family Services; or

3. who is a destitute child under section 398(1) of the Social Services Law.

Parental consent for services

Your school district must obtain your informed consent before providing special education and related services to your child for the first time. The school district must make reasonable efforts to obtain your informed consent before providing special education and related services to your child for the first time.

If you do not respond to a request to provide your consent for your child to receive special education and related services for the first time, or if you refuse to give such consent, your school district may not use due process procedures (i.e., mediation, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by your child's CSE or CPSE) may be provided to your child without your consent.

If you refuse to give your consent for your child to receive special education and related services for the first time, or if you do not respond to a request to provide such consent and the school district does not provide your child with the special education and related services for which it sought your consent, your school district:

1. is not in violation of the requirement to make FAPE available to your child for its failure to provide those services to your child; **and**
2. is not required to have an IEP meeting or develop an IEP for your child for the special education and related services for which your consent was requested.

Revocation of parental consent

If you inform the school district in writing that you revoke (take back) your consent for your school district to provide special education and related services to your child, your school district:

1. may not continue to provide special education and related services to your child;
2. may not use due process procedures (i.e., mediation, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the services may be provided to your child;
3. is not in violation of the requirement to make FAPE available to your child for its failure to provide further special education and related services to your child;
4. is not required to have an IEP meeting or develop an IEP for your child for the further provision of special education and related services; **and**
5. is not required to amend your child's education records to remove any reference to your child's receipt of special education and related services because of the revocation of consent.

Parental consent for reevaluations

Your school district must obtain your informed consent before it reevaluates your child, unless your school district can demonstrate that:

1. it took reasonable steps to obtain your consent for your child's reevaluation; **and**
2. you did not respond.

If you refuse to consent to your child's reevaluation, the school district may, but is not required to, pursue your child's reevaluation by using mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override your refusal to consent to your child's reevaluation. As with initial evaluations, your school district does not violate its obligations under Part B of IDEA if it declines to pursue the reevaluation in this manner.

Documentation of reasonable efforts to obtain parental consent

Your school must maintain documentation of reasonable efforts to obtain parental consent for initial evaluations and reevaluations, to provide special education and related services for the first time, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the school district's attempts in these areas, such as:

1. detailed records of telephone calls made or attempted and the results of those calls;
2. copies of correspondence sent to the parents and any responses received; **and**
3. detailed records of visits made to the parent's home or place of employment and the results of those visits.

Parental consent for insurance access

Parent consent is required prior to the school district accessing a parent's private or public insurance proceeds as described under the heading of ***Use of Public and Private Benefits/Insurance***.

Consent for Parentally-Placed and Home-Instructed Students

If you have enrolled your child in a private school at your own expense or if you are home schooling your child, and you do not provide your consent for your child's initial evaluation or your child's reevaluation, or you fail to respond to a request to provide your consent, the school district may not use its consent override procedures (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) and is not required to consider your child as eligible to receive equitable services (services made available to parentally-placed private school children with disabilities).

Other consent requirements

Your consent is not required before your school district may:

1. review existing data as part of your child's evaluation or a reevaluation; **or**
2. give your child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from all parents of all children.

Your school district may not use your refusal to consent to one service or activity to deny you or your child any other service, benefit, or activity.

The school district must develop and implement procedures to ensure that your refusal to consent to any of these other services and activities does not result in a failure to provide your child with FAPE.

INDEPENDENT EDUCATIONAL EVALUATIONS

34 CFR section 300.502; 8 NYCRR section 200.5(g)

General

As described below, you have the right to obtain an independent educational evaluation (IEE) of your child if you disagree with the evaluation of your child that was obtained by your school district.

If you request an IEE, the school district must provide you with information about where you may obtain one and about the school district's criteria that apply to IEEs.

Definitions

Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

Public expense means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you, consistent with the provisions of Part B of IDEA, which allow each state to use whatever State, local, federal and private sources of support are available in the State to meet the requirements of Part B of IDEA.

Parent right to evaluation at public expense

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you request an IEE of your child at public expense, your school district must, without unnecessary delay, either: (a) file a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) provide an IEE at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.
2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
3. If you request an IEE of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.

You are entitled to only one IEE of your child at public expense each time your school district conducts an evaluation of your child with which you disagree.

Parent-initiated evaluations

If you obtain an IEE of your child at public expense or you choose to share with the school district an evaluation of your child that you obtained at private expense:

1. Your school district must consider the results of the evaluation of your child, if it meets the school district's criteria for IEE, in any decision made with respect to the provision of FAPE to your child; **and**
2. You or your school district may present the evaluation as evidence at a due process hearing regarding your child.

Requests for evaluations by impartial hearing officers

If an impartial hearing officer requests an IEE of your child as part of a due process hearing, the cost of the evaluation must be at public expense.

School district criteria

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the school district uses when it initiates an evaluation (to the extent those criteria are consistent with your right to an IEE).

Except for the criteria described above, a school district may not impose conditions or timelines related to obtaining an IEE at public expense.

CONFIDENTIALITY OF INFORMATION

DEFINITIONS

34 CFR section 300.611

As used under the heading **Confidentiality of Information**:

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

Education records means the type of records covered under the definition of "education records" in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

Participating agency means any school district, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of IDEA.

PERSONALLY IDENTIFIABLE

34 CFR section 300.32; 8 NYCRR section 200.5(e)

Personally identifiable means information that has:

- (a) your child's name, your name as the parent, or the name of another family member;
- (b) your child's address;
- (c) a personal identifier, such as your child's social security number or student number;
or
- (d) a list of personal characteristics or other information that would make it possible to identify your child with reasonable certainty.

NOTICE TO PARENTS

34 CFR section 300.612

When the New York State Education Department (NYSED) and school districts maintain personally identifiable information, notice must be given that is adequate to fully inform parents about confidentiality of personally identifiable information, including:

1. a description of the extent to which the notice is given in the native languages of the various population groups in the State;
2. a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods used in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

3. a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; **and**
4. a description of all of the rights of parents and children regarding this information, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

Before any major identification, location, or evaluation activity (also known as "child find"), the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents of the activity to locate, identify, and evaluate children in need of special education and related services.

ACCESS RIGHTS

34 CFR section 300.613; 8 NYCRR sections 200.2(b)(6) and 200.5(d)(6)

The participating agency must permit you to inspect and review any education records relating to your child that are collected, maintained, or used by your school district under Part B of IDEA. The participating agency must comply with your request to inspect and review any education records on your child without unnecessary delay and before any meeting regarding an IEP, or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after you have made a request.

Your right to inspect and review education records includes:

1. a response from the participating agency to your reasonable requests for explanations and interpretations of the records;
2. a request that the participating agency provide copies of the records if you cannot effectively inspect and review the records unless you receive those copies; **and**
3. to have your representative inspect and review the records.

The participating agency may presume that you have authority to inspect and review records relating to your child unless advised that you do not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.

RECORD OF ACCESS

34 CFR section 300.614

Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

RECORDS ON MORE THAN ONE CHILD

34 CFR section 300.615

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

LIST OF TYPES AND LOCATIONS OF INFORMATION

34 CFR section 300.616

On request, each participating agency must provide you with a list of the types and locations of education records collected, maintained, or used by the agency.

FEES

34 CFR section 300.617

Each participating agency may charge a fee for copies of records that are made for you under Part B of IDEA, if the fee does not effectively prevent you from exercising your right to inspect and review those records.

A participating agency may not charge a fee to search for or to retrieve information under Part B of IDEA.

AMENDMENT OF RECORDS AT PARENT'S REQUEST

34 CFR section 300.618

If you believe that information in the education records regarding your child collected, maintained, or used under Part B of IDEA is inaccurate, misleading, or violates the privacy or other rights of your child, you may request the participating agency that maintains the information to change the information.

The participating agency must decide whether to change the information in accordance with your request within a reasonable period of time of receipt of your request.

If the participating agency refuses to change the information in accordance with your request, it must inform you of the refusal and advise you of the right to a hearing for this purpose as described under the heading *Opportunity For a Hearing*.

OPPORTUNITY FOR A HEARING

34 CFR section 300.619

The participating agency must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

HEARING PROCEDURES

34 CFR section 300.621

A hearing to challenge information in education records must be conducted according to the procedures for such hearings under FERPA.

RESULT OF HEARING

34 CFR section 300.620

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, it must inform you of your right to place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; **and**
2. if the participating agency discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

34 CFR section 300.622; 8 NYCRR section 200.5(b)

Unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA, your consent must be obtained before personally identifiable information is disclosed to parties other than officials of participating agencies. Except under the circumstances specified below, your consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of Part B of IDEA.

Your consent, or consent of an eligible child who has reached the age of majority under State law (age 18), must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If your child is in, or is going to go to, a private school that is not located in the same school district you reside in, your consent must be obtained before any personally identifiable information about your child is released between officials in the school district where the private school is located and officials in the school district where you reside.

SAFEGUARDS

34 CFR section 300.623

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding New York State's policies and procedures regarding confidentiality under Part B of IDEA and FERPA.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

DESTRUCTION OF INFORMATION

34 CFR section 300.624

Your school district must inform you when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to your child.

The information must be destroyed at your request. However, a permanent record of your child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

STATE COMPLAINT PROCEDURES

DIFFERENCE BETWEEN DUE PROCESS HEARING COMPLAINT AND STATE COMPLAINT PROCEDURES

The regulations for Part B of IDEA set forth separate procedures for State complaints and for due process complaints and hearings. As explained below, any individual or organization may file a State complaint alleging a violation of any Part B requirement by a school district, NYSED, or any other public agency. Only you or a school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child. NYSED staff generally must resolve a State complaint within a 60-calendar-day timeline, unless the timeline is properly extended. An impartial due process hearing officer must hear a due process complaint (if not resolved through a resolution meeting or through mediation) and issue a written decision within 45 calendar days for school-age students and 30 calendar days for preschool students after the end of the resolution period, (as described in this document under the heading Resolution Process) unless the hearing officer grants a specific extension of the timeline. Such an extension would be at your request or the school district's request. The State complaint and due process complaint, resolution and hearing procedures are described more fully below.

ADOPTION OF STATE COMPLAINT PROCEDURES

34 CFR section 300.151; 8 NYCRR section 200.5(I)

General

NYSED must have written procedures for:

1. resolving any complaint, including a complaint filed by an organization or individual from another State;
2. the filing of a complaint with NYSED. State complaints may be sent to:
Statewide Coordinator for Special Education
New York State Education Department
Office of Special Education
89 Washington Avenue, Room 309 EB
Albany, NY 12234
3. widely disseminating the State complaint procedures to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities.

Remedies for denial of appropriate services

In resolving a State complaint in which NYSED has found a failure to provide appropriate services, NYSED must address:

1. the failure to provide appropriate services, including corrective action appropriate to address the needs of the child; **and**
2. appropriate future provision of services for all children with disabilities.

MINIMUM STATE COMPLAINT PROCEDURES

34 CFR section 300.152; 8 NYCRR section 200.5(l)

Time limit; minimum procedures

NYSED must include in its State complaint procedures a time limit of 60 calendar days after a complaint is filed to:

1. carry out an independent on-site investigation, if NYSED determines that an investigation is necessary;
2. give the complainant (the person submitting the complaint) the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. provide the school district or other public agency with the opportunity to respond to the complaint, including, at a minimum: (a) at the option of the agency, a proposal to resolve the complaint; **and** (b) an opportunity for a parent who has filed a complaint and the agency to agree voluntarily to engage in mediation;
4. review all relevant information and make an independent determination as to whether the school district or other public agency is violating a requirement of Part B of IDEA; **and**
5. issue a written decision to the complainant that addresses each allegation in the complaint and contains: (a) findings of fact and conclusions; **and** (b) the reasons for NYSED's final decision.

Time extension; final decision; implementation

NYSED's procedures described above also must:

1. permit an extension of the 60 calendar-day time limit only if: (a) exceptional circumstances exist with respect to a particular State complaint; **or** (b) the parent and the school district or other public agency involved voluntarily agree to extend the time to resolve the matter through mediation.
2. include procedures for effective implementation of NYSED's final decision, if needed, including: (a) technical assistance activities; (b) negotiations; **and** (c) corrective actions to achieve compliance.

NYSED's decision rendered for the complaint is final and is not subject to appeal. While a school district and a parent have the right to initiate an impartial hearing to address the same issues raised in the complaint, the impartial hearing cannot be used as an appeal to a State complaint decision.

State complaints and due process hearings

If a written State complaint is received that is also the subject of a due process hearing as described below under the heading *Filing a Due Process Complaint*, or the State

complaint contains multiple issues of which one or more are part of such a hearing, NYSED must set aside the State complaint, or any part of the State complaint that is being addressed in the due process hearing until the hearing is over. Any issue in the State complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described above.

If an issue raised in a State complaint has previously been decided in a due process hearing involving the same parties (you and the school district), then the due process hearing decision is binding on that issue and NYSED must inform the complainant that the decision is binding.

A complaint alleging a school district's or other public agency's failure to implement a due process hearing decision must be resolved by NYSED.

FILING A COMPLAINT

34 CFR section 300.153; 8 NYCRR section 200.5(I)

An organization or individual may file a signed written State complaint under the procedures described above.

The State complaint must include:

1. a statement that a school district or other public agency has violated a requirement of Part B of IDEA or its regulations;
2. the facts on which the statement is based;
3. the signature and contact information for the complainant; and
4. if alleging violations regarding a specific child:
 - (a) the name of the child and address of the residence of the child;
 - (b) the name of the school the child is attending;
 - (c) in the case of a homeless child or youth, available contact information for the child, and the name of the school the child is attending;
 - (d) a description of the nature of the problem of the child, including facts relating to the problem; **and**
 - (e) a proposed resolution of the problem to the extent known and available to the party filing the complaint at the time the complaint is filed.

The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received as described under the heading ***Adoption of State Complaint Procedures***.

The party filing the State complaint must forward a copy of the complaint to the school district or other public agency serving the child at the same time the party files the complaint with NYSED.

DUE PROCESS COMPLAINT PROCEDURES

FILING A DUE PROCESS COMPLAINT

34 CFR section 300.507; 8 NYCRR section 200.5(i) and section 200.5(j)

General

You or the school district may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of your child, or the provision of FAPE to your child.

The due process complaint must allege a violation that happened not more than two years before you or the school district knew or should have known about the alleged action that forms the basis of the due process complaint.

The above timeline does not apply to you if you could not file a due process complaint within the timeline because:

1. the school district specifically misrepresented that it had resolved the issues identified in the complaint; or
2. the school district withheld information from you that it was required to provide you under Part B of IDEA.

Information for parents

The school district must inform you of any free or low-cost legal and other relevant services available in the area if you request the information, or if you or the school district file a due process complaint.

DUE PROCESS COMPLAINT

34 CFR section 300.508; 8 NYCRR section 200.5(i) and (j)

General

In order to request a hearing, you or the school district (or your attorney or the school district's attorney) must submit a due process complaint to the other party. That complaint must contain all of the content listed below and must be kept confidential.

You or the school district, whichever one filed the complaint, must also provide NYSED with a copy of the complaint.

Content of the complaint

The due process complaint must include:

1. the name of the child;
2. the address of the child's residence;
3. the name of the child's school;

4. if the child is a homeless child or youth, the child's contact information and the name of the child's school;
5. a description of the nature of the problem of the child relating to the proposed or refused action, including facts relating to the problem; and
6. a proposed resolution of the problem to the extent known and available to you or the school district at the time.

Notice required before a hearing on a due process complaint

You or the school district may not have a due process hearing until you or the school district (or your attorney or the school district's attorney), files a due process complaint that includes the information listed above.

Sufficiency of complaint

In order for a due process complaint to go forward, it must be considered sufficient. The due process complaint will be considered sufficient (to have met the content requirements above) unless the party receiving the due process complaint (you or the school district) notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the complaint, that the receiving party believes that the due process complaint does not meet the requirements listed above.

Within five calendar days of receiving the notification the receiving party (you or the school district) considers a due process complaint insufficient, the impartial hearing officer must decide if the due process complaint meets the requirements listed above, and notify you and the school district in writing immediately.

Complaint amendment

You or the school district may make changes to the complaint only if:

1. the other party approves of the changes in writing and is given the chance to resolve the due process complaint through a resolution meeting, described below; or
2. by no later than five days before the due process hearing begins, the hearing officer grants permission for the changes.

If the complaining party (you or the school district) makes changes to the due process complaint, the timelines for the resolution meeting (within 15 calendar days of receiving the complaint) and the time period for resolution (within 30 calendar days of receiving the complaint) start again on the date the amended complaint is filed.

Local educational agency (LEA) or school district response to a due process complaint

If the school district has not sent a prior written notice to you, as described under the heading **Prior Written Notice**, regarding the subject matter contained in your due process complaint, the school district must, within 10 calendar days of receiving the due process complaint, send a response to you that includes:

1. an explanation of why the school district proposed or refused to take the action raised in the due process complaint;

2. a description of other options that your child's CSE or CPSE considered and the reasons why those options were rejected;
3. a description of each evaluation procedure, assessment, record, or report the school district used as the basis for the proposed or refused action; **and**
4. a description of the other factors that are relevant to the school district's proposed or refused action.

Providing the information in items 1-4 above does not prevent the school district from asserting that your due process complaint was insufficient.

Other party response to a due process complaint

Except as stated under the sub-heading immediately above, **LEA or school district response to a due process complaint**, the party receiving a due process complaint must, within 10 calendar days of receiving the complaint, send the other party a response that specifically addresses the issues in the complaint.

MODEL FORMS

34 CFR section 300.509

NYSED must develop model forms to help you file a State complaint and a due process complaint. However, NYSED or the school district may not require you to use these model forms. You can use the State's model form or another appropriate form, so long as it contains the required information for filing a due process complaint or a State complaint. The State's model forms may be found at <http://www.p12.nysed.gov/specialed/>. Copies of the forms will be provided to you by the school district or by contacting NYSED, Office of Special Education at 518-473-2878.

MEDIATION

34 CFR section 300.506; 8 NYCRR section 200.5(h)

General

The school district must make mediation available to allow you and the school district to resolve disagreements involving any matter under Part B of IDEA, including matters arising prior to the filing of a due process complaint. Thus, mediation is available to resolve disputes under Part B of IDEA, whether or not you have filed a due process complaint to request a due process hearing as described under the heading **Filing a Due Process Complaint**.

Requirements

The procedures must ensure that the mediation process:

1. is voluntary on your part and the school district's part;
2. is not used to deny or delay your right to a due process hearing, or to deny any other rights you have under Part B of IDEA; **and**

3. is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

The school district may develop procedures that offer parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to you, with a disinterested party:

1. who is under contract with the Community Dispute Resolution Center (CDRC); **and**
2. who would explain the benefits and encourage the use of the mediation process to you.

New York State uses qualified mediators trained by CDRC who know the laws and regulations relating to the provision of special education and related services. Mediators are selected by CDRCs on a random, rotational, or other impartial basis.

Arranging mediation

Mediation is arranged through the school district with CDRCs. The State is responsible for the cost of the mediation process, including the costs of meetings.

Each meeting in the mediation process must be scheduled in a timely manner and held at a place that is convenient for you and the school district.

Mediation agreements

If you and the school district resolve a dispute through the mediation process, both parties must enter into a legally binding agreement that sets forth the resolution and:

1. states that all discussions that happened during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; **and**
2. is signed by both you and a representative of the school district who has the authority to bind the school district.

A written, signed mediation agreement is enforceable in any State court of competent jurisdiction (a court that has the authority under State law to hear this type of case) or in a district court of the United States.

Discussions that happened during the mediation process must be confidential. They cannot be used as evidence in any future due process hearing or civil proceeding of any federal court or State court of a State receiving assistance under Part B of IDEA.

Impartiality of mediator

The mediator:

1. may not be an employee of a State educational agency or school that is involved in the education or care of your child; **and**
2. must not have a personal or professional interest which conflicts with the mediator's objectivity.

A person who otherwise qualifies as a mediator is not an employee of a school district or State agency solely because he or she is paid by the agency or school district to serve as a mediator.

THE CHILD'S PLACEMENT WHILE THE DUE PROCESS COMPLAINT AND HEARING ARE PENDING (PENDENCY)

34 CFR section 300.518; 8 NYCRR section 200.5(m)

Except as provided below under the heading *PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES*, once a due process complaint is sent to the other party, during the resolution process time period, and while waiting for the decision of any impartial due process hearing or court proceeding, unless you and your school district or you and the State Review Officer agree otherwise, your child must remain in his or her current educational placement.

If the due process proceeding concerns consent for an initial evaluation, your child will not be evaluated while the proceeding is pending.

If the due process complaint involves an application for initial admission to public school, your child, with your consent, must be placed in the regular public school program until the completion of all such proceedings.

A child who received preschool special education services and is now school-age may, during hearings and appeals, remain in the same programs as the preschool program if that program also has an approved school-age special education program.

If your preschool child is currently not receiving special education services and programs, he or she may, during any hearings or appeals, receive special education services and programs if you and the school district agree.

If the due process complaint involves an application for initial services under Part B of IDEA for a child who is transitioning from being served under Part C of IDEA (Early Intervention Services) to Part B of IDEA (Preschool Special Education Services) and who is no longer eligible for Part C services because the child has turned three, the school district is not required to provide the Part C services that the child has been receiving. If the child is found eligible under Part B of IDEA and you consent for the child to receive special education and related services for the first time, then, pending the outcome of the proceedings, the school district must provide those special education and related services that are not in dispute (those which you and the school district both agree upon).

A child who has received early intervention services and is not of preschool age may, during hearings and appeals, receive special education in the same program as the early intervention program if that program is also an approved preschool program.

RESOLUTION PROCESS

34 CFR section 300.510; 8 NYCRR section 200.5(j)

Resolution meeting

Within 15 calendar days of receiving notice of your due process complaint, and before the due process hearing begins, the school district must convene a meeting with you and the relevant member or members of the CSE or CPSE who have specific knowledge of the facts identified in your due process complaint. The meeting:

1. must include a representative of the school district who has decision-making authority on behalf of the school district; and
2. may not include an attorney of the school district unless you are accompanied by an attorney.

You and the school district determine the relevant members of the CSE or CPSE to attend the meeting.

The purpose of the meeting is for you to discuss your due process complaint, and the facts that form the basis of the complaint, so that the school district has the opportunity to resolve the dispute.

The resolution meeting is not necessary if:

1. you and the school district agree in writing to waive the meeting; or
2. you and the school district agree to use the mediation process, as described under the heading **Mediation**.

A school district must make reasonable efforts to obtain your participation in the resolution meeting.

Resolution period

If the school district has not resolved the due process complaint to your satisfaction within 30 calendar days of the receipt of the due process complaint (during the time period for the resolution process), the due process hearing may occur.

The 45-calendar-day timeline for school-age students or 30-calendar-day timeline for preschool students for issuing a final decision begins at the expiration of the 30-calendar-day resolution period, with certain exceptions for adjustments made to the 30-calendar-day resolution period, as described below.

Except where you and the school district have both agreed to waive the resolution process or to use mediation, **your failure to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until you agree to participate in a meeting.** If you decide not to attend the resolution meeting, your impartial hearing may be dismissed by an impartial hearing officer.

If after making reasonable efforts and documenting such efforts, the school district is not able to obtain your participation in the resolution meeting, the school district may, at the end of the 30-calendar-day resolution period, request that an impartial hearing officer dismiss your due process complaint. Documentation of such efforts must include a record of the school district's attempts to arrange a mutually agreed upon time and place, such as:

1. detailed records of telephone calls made or attempted and the results of those calls;
2. copies of correspondence sent to you and any responses received; and
3. detailed records of visits made to your home or place of employment and the results of those visits.

If the school district fails to hold the resolution meeting within 15 calendar days of receiving notice of your due process complaint or fails to participate in the resolution meeting, you may ask a hearing officer to order that the 45-calendar-day due process

hearing timeline for school-age students (or the 30-calendar-day due process hearing timeline for preschool) begin.

Adjustments to the 30-calendar-day resolution period

If you and the school district agree in writing to waive the resolution meeting, then the 45 calendar day for school-age (or 30 calendar day for preschool) timeline for the due process hearing starts the next calendar day.

After the start of mediation or the resolution meeting and before the end of the 30-calendar-day resolution period, if you and the school district agree in writing that no agreement is possible, then the 45 calendar day for school-age students or 30 calendar day for preschool timeline for the due process hearing starts the next calendar day.

If you and the school district agree to use the mediation process, at the end of the 30-calendar-day resolution period, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either you or the school district withdraws from the mediation process, then the 45-calendar-day or 30-calendar-day timeline for the due process hearing starts the next calendar day.

Written agreement

If a resolution to the dispute is reached at the resolution meeting, you and the school district must enter into a legally binding agreement that is:

1. signed by you and a representative of the school district who has the authority to bind the school district; **and**
2. enforceable in any State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States.

Agreement review period

If you and the school district enter into an agreement as a result of a resolution meeting, either party (you or the school district) may void the agreement within three business days of the time that both you and the school district signed the agreement.

HEARINGS ON DUE PROCESS COMPLAINTS

IMPARTIAL DUE PROCESS HEARING

34 CFR section 300.511; 8 NYCRR sections 200.1(x), 200.5(i) and (j)

General

Whenever a due process complaint is filed, you or the school district involved in the dispute must have an opportunity for an impartial due process hearing, as described in the *Due Process Complaint* and *Resolution Process* sections. The school district appoints the impartial hearing officer from the rotational list. The impartial hearing officer convenes the impartial hearing.

Impartial hearing officer (IHO)

At a minimum, an IHO must:

1. not be an employee of a State educational agency or school that is involved in the education or care of the child. However, a person is not an employee of the agency solely because he/she is paid by the agency to serve as a hearing officer;
2. not have a personal or professional interest that conflicts with the hearing officer's objectivity in the hearing;
3. be knowledgeable and understand the provisions of IDEA, and federal and New York State regulations pertaining to IDEA, and legal interpretations of IDEA by federal and State courts; and
4. have the knowledge and ability to conduct hearings, and to make and write decisions, consistent with appropriate, standard legal practice.

Each school district must keep a list of those persons who serve as IHOs.

Subject matter of due process hearing

The party (you or the school district) that requests the due process hearing may not raise issues at the due process hearing that were not addressed in the due process complaint notice, unless the other party agrees.

Timeline for requesting a hearing

You or the school district must request an impartial hearing on a due process complaint within two years of the date you or the school district knew or should have known about the issue addressed in the complaint.

Exceptions to the timeline

The above timeline does not apply to you if you could not file a due process complaint because:

1. the school district specifically misrepresented that it had resolved the problem or issue that you are raising in your complaint; or

2. the school district withheld information from you that it was required to provide to you under Part B of IDEA.

HEARING RIGHTS

34 CFR section 300.512; 8 NYCRR section 200.5(j)

General

Any party to a due process hearing (including a hearing relating to disciplinary procedures) or an appeal, as described under the sub-heading ***Appeal of decisions; impartial review*** has the right to:

1. be accompanied and advised by a lawyer and/or persons with special knowledge or training regarding the problems of children with disabilities;
2. present evidence and confront, cross-examine, and require the attendance of witnesses;
3. prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five business days before the hearing;
4. obtain a written, or, at your option, electronic, word-for-word record of the hearing; **and**
5. obtain written, or, at your option, electronic findings of fact and decisions.

Additional disclosure of information

At least five business days prior to a due process hearing, you and the school district must disclose to each other all evaluations completed by that date and recommendations based on those evaluations that you or the school district intend to use at the hearing.

An IHO may prevent any party that fails to comply with this requirement from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Parental rights at hearings

You must be given the right to:

1. have your child present;
2. open the hearing to the public;
3. have the record of the hearing, the findings of fact and decisions provided to you at no cost; **and**
4. have an interpreter for the deaf or an interpreter fluent in your native language, if necessary, at no cost to you.

HEARING DECISIONS

34 CFR section 300.513; 8 NYCRR section 200.5(j)

Decision of hearing officer

An IHO's decision on whether your child received FAPE must be based on substantive grounds.

In matters alleging a procedural violation, an IHO may find that your child did not receive FAPE only if the procedural inadequacies:

1. interfered with your child's right to FAPE;
2. significantly interfered with your opportunity to participate in the decision-making process regarding the provision of FAPE to your child; or
3. caused a deprivation of an educational benefit.

Construction clause

None of the provisions described above can be interpreted to prevent an IHO from ordering a school district to comply with the requirements in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR sections 300.500 through 300.536).

None of the provisions under the headings: *Filing a Due Process Complaint; Due Process Complaint; Model Forms; Resolution Process; Impartial Due Process Hearing; Hearing Rights; and Hearing Decisions* (34 CFR sections 300.507 through 300.513), can affect your right to file an appeal of the due process hearing decision with the State Review Officer (SRO) (see heading **Appeals - Finality of Decision**).

Separate request for a due process hearing

Nothing in the procedural safeguards section of the federal regulations under Part B of IDEA (34 CFR sections 300.500 through 300.536) can be interpreted to prevent you from filing a separate due process complaint on an issue separate from a due process complaint already filed.

APPEALS**FINALITY OF DECISION; APPEAL; IMPARTIAL REVIEW****34 CFR section 300.514; 8NYCRR section 200.5(k)****Finality of hearing decision**

A decision made in a due process hearing (including a hearing relating to disciplinary procedures) is final, except that any party involved in the hearing (you or the school district) may appeal the decision to NYSED, Office of State Review.

State-level appeals of IHO decisions

The decision made by the IHO is final unless you or the school district ask for a review of the decision of the IHO (called a request for review) by a State Review Officer (SRO). If you want to appeal the IHO decision to an SRO, a Notice of Intention to Seek Review (Form A) must be served on the school district **within 25 days from the date of the IHO's decision**. The notice of request for review (Form B) and request for review must be served by hand-delivery on the school district **within 40 days from the date of the IHO's decision**. The SRO will:

1. make a final decision within 30 calendar days. The SRO may extend the time beyond the 30 days upon good cause shown at the timely written request of you or the school district. The extension must be for a specific time.
2. mail copies of the written or, at your option, electronic findings of fact and the decision to you or your attorney and the board of education (BOE) within the 30-day period or time period as extended by the SRO as set forth above.

The rules for filing an appeal to the SRO can be found at: <http://www.sro.nysed.gov>.

If there is an appeal, the SRO must conduct an impartial review of the findings and decision appealed. The official conducting the review must:

1. examine the entire hearing record;
2. ensure that the procedures at the hearing were consistent with the requirements of due process;
3. seek additional evidence if necessary. If a hearing is held to receive additional evidence, the hearing rights described above under the heading **Hearing Rights** apply;
4. give the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
5. make an independent decision on completion of the review; **and**
6. give you and the school district a copy of the written, or, at your option, electronic findings of fact and decisions.

Finality of review decision

The decision made by the SRO is final unless you or the school district brings a civil action, as described below.

TIMELINES AND CONVENIENCE OF HEARINGS AND REVIEWS**34 CFR section 300.515; 8 NYCRR sections 200.5(j) and 200.16(h)**

The school district must ensure that, not later than 45 calendar days for school-age students or 30 calendar days for preschool students, after the expiration of the 30 calendar day period for resolution meetings or, as described under the sub-heading ***Adjustments to the 30-calendar-day resolution period***, not later than 45 calendar days for school-age students or 30 calendar days for preschool students after the expiration of the adjusted time period:

1. a final decision is reached in the hearing; and
2. a copy of the decision is mailed to you and the school district.

The SRO must ensure that not later than 30 calendar days after the receipt of a request for review or such time as extended by the SRO:

1. a final decision is reached in the review; and
2. a copy of the decision is mailed to you and the school district.

An IHO or a SRO may grant specific extensions of time beyond the periods described above (45-calendar-day for school-age or 30-calendar-day for preschool hearing decision timeline and 30-calendar-day SRO decision timeline) if you or the school district make a request for a specific extension of the timeline.

Each hearing and review involving oral arguments must be conducted at a time and place that is reasonably convenient to you and your child.

CIVIL ACTIONS, INCLUDING THE TIME PERIOD IN WHICH TO FILE THOSE ACTIONS**34 CFR section 300.516; 8 NYCRR section 200.5(k)****General**

Any party (you or the school district) who does not agree with the findings and decision in the State-level review has the right to bring a civil action with respect to the matter that was the subject of the due process hearing (including a hearing relating to disciplinary procedures). The action may be brought in a State court of competent jurisdiction (a State court that has authority to hear this type of case) or in a district court of the United States without regard to the amount in dispute.

Time limitation

The party (you or the school district) bringing the action have four months from the date of the decision of the SRO to file a civil action.

Additional procedures

In any civil action, the court:

1. receives the records of the administrative proceedings;
2. hears additional evidence at your request or at the school district's request; **and**
3. bases its decision on the preponderance of the evidence and grants the relief that the court determines to be appropriate.

Jurisdiction of district courts

The district courts of the United States have authority to rule on actions brought under Part B of IDEA without regard to the amount in dispute.

Rule of construction

Nothing in Part B of IDEA restricts or limits the rights, procedures, and remedies available under the U.S. Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973 (Section 504), or other federal laws protecting the rights of children with disabilities. However, before filing a civil action under these laws seeking relief that is also available under Part B of IDEA, the due process procedures described above must be exhausted to the same extent as would be required if the party filed the action under Part B of IDEA. This means that you may have remedies available under other laws that overlap with those available under IDEA, but in general, to obtain relief under those other laws, you must first use the available administrative remedies under IDEA (i.e., the due process complaint, resolution meeting, and impartial due process hearing procedures) before going directly into court.

ATTORNEYS' FEES

34 CFR section 300.517

General

In any action or proceeding brought under Part B of IDEA, if you prevail, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to you.

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing school district, or NYSED to be paid by your attorney, if the attorney: (a) filed a complaint or court case that the court finds is frivolous, unreasonable, or without foundation; **or** (b) continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation.
or

In any action or proceeding brought under Part B of IDEA, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to a prevailing state educational agency (SEA) or school district, to be paid by you or your attorney, if your request for a due process hearing or later court case was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to unnecessarily increase the cost of the action or proceeding.

Award of fees

A court awards reasonable attorneys' fees as follows:

1. Fees must be based on rates prevailing in the community in which the action or hearing began for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded.
2. Fees may not be awarded and related costs may not be reimbursed in any action or proceeding under Part B of IDEA for services performed after a written offer of settlement to you if:
 - a. the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of a due process hearing or State-level review, at any time more than 10 calendar days before the proceeding begins;
 - b. the offer is not accepted within 10 calendar days; **and**
 - c. the court or administrative hearing officer finds that the relief finally obtained by you is not more favorable to you than the offer of settlement.

Despite these restrictions, an award of attorneys' fees and related costs may be made to you if you prevail and you were substantially justified in rejecting the settlement offer.

3. Fees may not be awarded relating to any meeting of the CSE or CPSE unless the meeting is held as a result of an administrative proceeding or court action. *Fees also may not be awarded for a mediation as described under the heading Mediation.*

A resolution meeting, as described under the heading **Resolution meeting**, is not considered a meeting convened as a result of an administrative hearing or court action, and also is not considered an administrative hearing or court action for purposes of these attorneys' fees provisions.

The court reduces, as appropriate, the amount of the attorneys' fees awarded under Part B of IDEA, if the court finds that:

1. you, or your attorney, during the course of the action or proceeding, unreasonably delayed the final resolution of the dispute;
2. the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably similar skill, reputation, and experience;
3. the time spent and legal services furnished were excessive considering the nature of the action or proceeding; **or**
4. the attorney representing you did not provide to the school district the appropriate information in the due process request notice as described under the heading **Due Process Complaint**.

However, the court may not reduce fees if the court finds that the State or school district unreasonably delayed the final resolution of the action or proceeding or there was a violation under the procedural safeguards provisions of Part B of IDEA.

PROCEDURES WHEN DISCIPLINING CHILDREN WITH DISABILITIES

AUTHORITY OF SCHOOL PERSONNEL

34 CFR section 300.530; 8 NYCRR sections 201.2 - 201.7

Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis, when determining whether a change of placement, made in accordance with the following requirements related to discipline, is appropriate for a child with a disability who violates a school code of student conduct.

General

The procedures for the discipline of students with disabilities must be in accordance with section 3214 of the Education Law and Part 201 of the Regulations of the Commissioner of Education. While the school has the authority to suspend or remove your child for violating the school's code of conduct, you and your child have certain rights throughout the process.

Rights that apply to all students

1. To be notified immediately by telephone, if possible, and to receive written notice within 24 hours of a proposed suspension of five school days or less. The notice should describe the incident, proposed suspension and your child's rights. You also have the right to request an informal conference with the school principal, which will be held before the suspension unless your child's presence in school poses a danger (in which case the informal conference can occur after your child is suspended).
2. To receive written notice of your opportunity for a superintendent's hearing, if the suspension is for more than five consecutive school days, which describes your child's rights to counsel and to question and present witnesses.
3. For your child to receive alternative instruction during the first ten days of any suspension or removal to the same extent as nondisabled students, if your child is of compulsory school age.

Rights that apply to students with disabilities

To the extent that they also take such action for children without disabilities, school personnel may, for not more than **10 school days** in a row, remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting (IAES) which must be determined by the child's CSE or CPSE, another setting, or suspension. School personnel may also impose additional removals of the child of not more than **10 school days** in a row in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement (see *Change of Placement Because of Disciplinary Removals* for the definition, below).

Once a child with a disability has been removed from his or her current placement for a total of **10 school days** in the same school year, the school district must, during any subsequent days of removal in that school year, provide services to the extent required below under the sub-heading **Services**.

Additional authority

If the behavior that violated the student code of conduct was not a manifestation of the child's disability (see **Manifestation determination**, below) and the disciplinary change of placement would exceed **10 school days** in a row, school personnel may apply the disciplinary procedures to that child with a disability in the same manner and for the same duration as it would to children without disabilities, except that the school must provide services to that child as described below under **Services**. The child's CSE or CPSE determines the IAES for such services.

Services

The services that must be provided to a child with a disability who has been removed from the child's current placement may be provided in an IAES.

A school district is only required to provide services to a child with a disability who has been removed from his or her current placement for **10 school days or less** in that school year, if it provides services to a child without disabilities who has been similarly removed.

In New York State, the school district must provide alternative instruction to a student with a disability who has been suspended for less than 10 days in a school year if the student is of compulsory school age. If the student is not of compulsory school age, alternative instruction must be provided if these services are provided to nondisabled students.

The education service requirements for students with disabilities during the first 10 days of suspension in a school year are the same as they are for nondisabled students. In New York State, alternative instruction must be provided for a minimum of one hour daily for an elementary student and two hours daily for a secondary student. If a student who is not of compulsory school age is suspended, the school district is not required to provide the student with the alternative instruction unless they provide this instruction to nondisabled students.

A child with a disability who is removed from the child's current placement for **more than 10 school days** must:

1. continue to receive educational services, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; **and**
2. receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not happen again.

After a child with a disability has been removed from his or her current placement for **10 school days** in that same school year, and **if** the current removal is for **10 school days** in a row or less **and** if the removal is not a change of placement (see definition below), **then** school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in

the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

If the removal is a change of placement (see definition below), the child's CSE or CPSE determines the appropriate services to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

Manifestation determination

Within **10 school days** of any decision to change the placement of a child with a disability because of a violation of a code of student conduct (except for a removal that is for **10 school days** in a row or less and not a change of placement), the school district, the parent, and relevant members of the CSE or CPSE (as determined by the parent and the school district) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

1. if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
2. if the conduct in question was the direct result of the school district's failure to implement the child's IEP.

If the school district, the parent, and relevant members of the child's CSE or CPSE determine that either of those conditions was met, the conduct must be determined to be a manifestation of the child's disability.

If the school district, the parent, and relevant members of the child's CSE or CPSE determine that the conduct in question was the direct result of the school district's failure to implement the IEP, the school district must take immediate action to remedy those deficiencies.

Determination that behavior was a manifestation of the child's disability

If the school district, the parent, and relevant members of the CSE or CPSE determine that the conduct was a manifestation of the child's disability, the CSE or CPSE must either:

1. conduct a functional behavioral assessment, unless the school district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
2. if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior.

Except as described below under the sub-heading ***Special circumstances***, the school district must return the child to the placement from which the child was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

Special circumstances

Whether or not the behavior was a manifestation of the child's disability, school personnel may remove a student to an IAES (determined by the child's CSE or CPSE) for up to 45 school days, if the child:

1. carries a weapon (see the definition below) to school or has a weapon at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district;
2. knowingly has or uses illegal drugs (see the definition below), or sells or solicits the sale of a controlled substance, (see the definition below), while at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district;
or
3. has inflicted serious bodily injury (see the definition below) upon another person while at school, on school premises, or at a school function under the jurisdiction of NYSED or a school district.

Definitions

Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of federal law.

Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

Notification

On the date it makes the decision to make a removal that is a change of placement of the child because of a violation of a code of student conduct, the school district must notify the parents of that decision, and provide the parents with a procedural safeguards notice.

CHANGE OF PLACEMENT BECAUSE OF DISCIPLINARY REMOVALS

34 CFR section 300.536; 8 NYCRR section 201.2

A removal of a child with a disability from the child's current educational placement is a **change of placement** if:

1. the removal is for more than 10 school days in a row; or
2. the child has been subjected to a series of removals that constitute a pattern because:
 - a. the series of removals total more than 10 school days in a school year;

- b. the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- c. of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Whether a pattern of removals constitutes a change of placement is determined on a case-by-case basis by the school district and, if challenged, is subject to review through due process and judicial proceedings.

DETERMINATION OF SETTING

34 CFR section 300.531; 8 NYCRR section 201.10

The CSE or CPSE must determine the IAES for removals that are **changes of placement**, and removals under the headings **Additional authority** and **Special circumstances**, above.

APPEAL

34 CFR section 300.532; 8 NYCRR section 201.11

General

The parent of a child with a disability may file a due process complaint (see above) to request a due process hearing if he or she disagrees with:

1. any decision regarding placement made under these discipline provisions; **or**
2. the manifestation determination described above.

The school district may file a due process complaint (see above) to request a due process hearing if it believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

Authority of impartial hearing officer

A hearing officer that meets the requirements described under the sub-heading **Impartial Hearing Officer** must conduct the due process hearing and make a decision. The hearing officer may:

1. return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of the requirements described under the heading **Authority of School Personnel**, or that the child's behavior was a manifestation of the child's disability; **or**
2. order a change of placement of the child with a disability to an appropriate IAES for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These hearing procedures may be repeated, if the school district believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

Whenever a parent or a school district files a due process complaint to request such a hearing, a hearing must be held that meets the requirements described under the headings *Due Process Complaint Procedures, Hearings on Due Process Complaints*, and *Appeal of decisions; impartial review* except as follows:

1. The school district must arrange for an expedited due process hearing, which must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing.
2. Unless the parents and the school district agree in writing to waive the meeting, or agree to use mediation, a resolution meeting must occur within seven calendar days of receiving notice of the due process complaint. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

A party may appeal the decision in an expedited due process hearing in the same way as they may for decisions in other due process hearings (see *Appeals*, above).

PLACEMENT DURING APPEALS

34 CFR section 300.533; 8 NYCRR section 201.10

When, as described above, the parent or school district has filed a due process complaint related to disciplinary matters, the child must (unless the parent and NYSED or school district agree otherwise) remain in IAES pending the decision of the IHO, or until the expiration of the time period of removal as provided for and described under the heading *Authority of School Personnel*, whichever occurs first.

PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES

34 CFR section 300.534; 8 NYCRR section 201.5

General

If a child has not been determined eligible for special education and related services and violates a code of student conduct, but the school district had knowledge (as determined below) before the behavior that brought about the disciplinary action occurred, that the child was a child with a disability, then the child may assert any of the protections described in this notice.

Basis of knowledge for disciplinary matters

A school district must be deemed to have knowledge that a child is a child with a disability if, before the behavior that brought about the disciplinary action occurred:

1. the parent of the child expressed concern in writing that the child is in need of special education and related services to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child;

2. the parent requested an evaluation related to eligibility for special education and related services under Part B of IDEA; or
3. the child's teacher, or other school district personnel expressed specific concerns about a pattern of behavior demonstrated by the child directly to the school district's director of special education or to other supervisory personnel of the school district.

Exception

A school district would not be deemed to have such knowledge if:

1. the child's parent has not allowed an evaluation of the child or refused special education services; or
2. the child has been evaluated and determined to not be a child with a disability under Part B of IDEA.

Conditions that apply if there is no basis of knowledge

If prior to taking disciplinary measures against the child, a school district does not have knowledge that a child is a child with a disability, as described above under the sub-headings ***Basis of knowledge for disciplinary matters*** and ***Exception***, the child may be subjected to the disciplinary measures that are applied to children without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation must be conducted in an expedited manner.

Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by the parents, the school district must provide special education and related services in accordance with Part B of IDEA, including the disciplinary requirements described above.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES

34 CFR section 300.535

Part B of IDEA does not:

1. prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities; or
2. prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and State law to crimes committed by a child with a disability.

Transmittal of records

If a school district reports a crime committed by a child with a disability, the school district:

1. must ensure that copies of the child's special education and disciplinary records are transmitted for consideration by the authorities to whom the agency reports the crime; and
2. may transmit copies of the child's special education and disciplinary records only to the extent permitted by FERPA.

USE OF PUBLIC AND PRIVATE BENEFITS/INSURANCE**CHILDREN WITH DISABILITIES COVERED BY PUBLIC INSURANCE****34 CFR section 300.154(d); 8 NYCRR sections 200.5(b)(8)**

A school district may use the parent's or child's public benefits or insurance programs (such as Medicaid) to provide or pay for special education and related services. In order to bill public benefits or insurance programs, the school district must:

1. obtain your written consent (consistent with the section under the heading **Parental Consent – Definition**) before accessing your or your child's public benefits or insurance for the first time; and
2. provide you with a written notification before accessing your or your child's public benefits or insurance for the first time and annually thereafter. This written notification must inform you that:
 - a) you are not required to sign up for or enroll in public benefits in order for your child to receive FAPE;
 - b) you are not required to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount incurred in filing a claim for services;
 - c) the district may not use your child's benefits under a public benefits or insurance program if that use would:
 - decrease available lifetime coverage or other insured benefit;
 - result in your family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for your child outside of the time your child is in school;
 - increase premiums or lead to the discontinuation of benefits or insurance; or
 - risk loss of eligibility for home and community-based waivers, based aggregate health-related expenditures.
 - d) your refusal or withdrawal of consent to allow access to your public benefits or insurance does not relieve the school district of its responsibility to ensure that all IEP services are provided at no cost to you; and
 - e) you may withdraw your consent at any time.

CHILDREN WITH DISABILITIES COVERED BY PRIVATE INSURANCE

34 CFR section 300.154(e); 8 NYCRR sections 200.5(b)(9)

With regard to services required to provide FAPE to your child, the school district may access your private insurance proceeds only if you provide consent consistent with the section under the heading *Parental Consent - Definition*

Each time the school district proposes to access your private insurance proceeds, it must:

- obtain your consent; and
- inform you that your refusal to permit the school district to access your private insurance does not relieve the school district of its responsibility to ensure that all required services are provided at no cost to you.

The school district may use its Part B IDEA funds to pay the costs that you might otherwise have to pay to use your benefits or insurance (e.g., the deductible or co-pay).

REQUIREMENTS FOR UNILATERAL PLACEMENT BY PARENTS OF CHILDREN IN PRIVATE SCHOOLS AT PUBLIC EXPENSE**GENERAL****34 CFR section 300.148**

Part B of IDEA does not require a school district to pay for the cost of education, including special education and related services, of your child with a disability at a private school or facility if the school district made FAPE available to your child and you choose to place the child in a private school or facility. However, the school district where the private school is located must include your child in the population whose needs are addressed under the Part B provisions regarding children who have been placed by their parents in a private school under 34 CFR sections 300.131 through 300.144.

Reimbursement for private school placement

If your child previously received special education and related services under the authority of a school district, and you choose to enroll your child in a private preschool, elementary school, or secondary school without the consent of or referral by the school district, a court or a hearing officer may require the agency to reimburse you for the cost of that enrollment if the court or an IHO finds that the agency had not made FAPE available to your child in a timely manner prior to that enrollment and that the private placement is appropriate. An IHO or court may find your placement to be appropriate, even if the placement does not meet the State standards that apply to education provided by NYSED and school districts.

Limitation on reimbursement

The cost of reimbursement described in the paragraph above may be reduced or denied:

1. if: (a) At the most recent CSE or CPSE meeting that you attended prior to your removal of your child from the public school, you did not inform the CSE or CPSE that you were rejecting the placement proposed by the school district to provide FAPE to your child, including stating your concerns and your intent to enroll your child in a private school at public expense; or (b) At least 10 business days (including any holidays that occur on a business day) prior to your removal of your child from the public school, you did not give written notice to the school district of that information;
2. if, prior to your removal of your child from the public school, the school district provided prior written notice to you, of its intent to evaluate your child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but you did not make the child available for the evaluation; or
3. upon a court's finding that your actions were unreasonable.

However, the cost of reimbursement:

1. must not be reduced or denied for failure to provide the notice if: (a) the school prevented you from providing the notice; (b) you had not received notice of your responsibility to provide the notice described above; or (c) compliance with the requirements above would likely result in physical harm to your child; **and**
2. may, in the discretion of the court or an IHO, not be reduced or denied for the parents' failure to provide the required notice if: (a) the parent is not literate or cannot write in English; or (b) compliance with the above requirement would likely result in serious emotional harm to the child.

RESOURCES

USDOE - IDEA Site - (includes Part 300 of the Code of Federal Regulations)
<http://idea.ed.gov/>

New York State Education Department - <http://www.nysed.gov/home.html>

Office of Special Education - <http://www.p12.nysed.gov/specialed/>

Parts 200 and 201 of the Regulations of the Commissioner of Education -
<http://www.p12.nysed.gov/specialed/lawsregs/part200.htm>

Office of Special Education updates - <http://www.p12.nysed.gov/specialed/timely.htm>

Special Education Quality Assurance Regional Offices –

General Information - <http://www.p12.nysed.gov/specialed/quality/home.html>

Location of Offices - <http://www.p12.nysed.gov/specialed/quality/qaoffices.htm>
(also listed on next page)

Special Education Quality Assurance Regional Offices:**Central**

NYS Education Department
Special Education Quality Assurance
Hughes State Office Building
333 E. Washington Street, Suite 210
Syracuse, NY 13202
(315) 428-4556
(315) 428-4555 (fax)

New York City

NYS Education Department
Special Education Quality Assurance
55 Hanson Place, Room 545
Brooklyn, NY 11217-1580
(718) 722-4544
(718) 722-2032 (fax)

Eastern

NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 486-6366
(518) 486-7693 (fax)

Long Island

NYS Education Department
Special Education Quality Assurance
Perry B. Duryea, Jr. State Office Building
Room # 2A-5
Hauppauge, NY 11788
(631) 952-3352
(631) 952-3834 (fax)

Hudson Valley

Albany Site
NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(518) 402-3582 (fax)

Western

(NYS School for the Blind)
NYS Education Department
Special Education Quality Assurance
2A Richmond Avenue
Batavia, NY 14020
(585) 344-2002
(585) 344-2422 (fax)

Peekskill Site

NYS Education Department
Special Education Quality Assurance
1 Park Place, 3rd Floor
Peekskill, NY 10566
(914) 940-2900
(914) 402-2180 (fax)

Nondistrict Unit

Albany Site
NYS Education Department
Special Education Quality Assurance
89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(518) 486-7693 (fax)

Peekskill Site

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