

## **200.4 Procedures for referral, evaluation, individualized education program (IEP) development, placement and review.**

### **Referral:**

In accordance with New York State Education Law 4402 and Part 200.2, 200.4, and 200.5 of the Commissioner's Regulations, the CSE is responsible for evaluating all school-age students suspected of having a disability, identifying a disability (or determining that no disability exists), and recommending placement and type of special education programs and/or services within sixty (60) school days of the date of receipt of consent for initial evaluation. Referrals can be made at any time during the twelve-month school year.

A student suspected of having a disability shall be referred in writing to the chairperson of the district's committee on special education or to the building administrator of the school which the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs and services. The school district must initiate a referral and promptly request parental consent to evaluate the student to determine if the student needs special education services and programs if a student has not made adequate progress after an appropriate period of time when provided instruction as described in section 100.2(ii) of this Title.

**Referral for an initial evaluation:** A referral may be made by:

- a student's parent as defined in section 200.1
- a designee of the school district in which the student resides, or the public school district the student legally attends or is eligible to attend
- the commissioner or designee of a public agency with responsibility for the education of the student
- a designee of an education program affiliated with a child care institution with committee on special education responsibility pursuant to section 4002(3) of the Education Law.

**Request for referral for an initial evaluation:** A written request that the school district or agency refer the student for an initial evaluation may be made by:

- a professional staff member of the school district in which the student resides, or the public or private school the student legally attends or is eligible to attend
- a licensed physician
- a judicial officer
- a professional staff member of a public agency with responsibility for welfare, health or education of children
- a student who is 18 years of age or older, or an emancipated minor, who is eligible to attend the public schools of the district.

A written request for referral of a student for an initial evaluation made to the school where the student resides or legally attends or is eligible to attend shall, if received by the building administrator or

any other employee of the school, be forwarded to the committee chairperson immediately upon its receipt.

A written request for referral submitted by persons other than the student or a judicial officer shall:

- state the reasons for the referral and include any test results, records or reports upon which the referral is based that may be in the possession of the person submitting the referral
- describe in writing, intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reasons why no such attempts were made
- describe the extent of parental contact or involvement prior to the referral.

Upon receipt of a request for a referral, the school district shall, within **10 school days**, either:

- request parent consent to initiate the evaluation or
- provide the parent with a copy of such request for referral; and
  - inform the parent of his or her right to refer the student for an initial evaluation for special education programs and/or services; and
  - offer the parent the opportunity to meet to discuss the request for referral and, as appropriate, the availability of appropriate general education support services for the student, with the building administrator or other designee of the school district authorized to make a referral pursuant to paragraph (1) of this subdivision, and the party making the request for referral if a professional staff member of the school district.

Upon request of the parent or school district, any other person making a request for referral shall have the opportunity to attend such meeting. The date of receipt of a referral means the date on which either the committee chairperson or the building administrator receives the referral, whichever is earlier.

If a referral is received by the building administrator, it shall be forwarded to the committee chairperson immediately upon its receipt by the administrator.

If a referral is received by the committee chairperson, a copy shall be forwarded to the building administrator within **five school days** of its receipt by the committee chairperson.

#### **Withdrawal of Referral:**

Within **ten (10) school days** following receipt of CSE referral or copy of referral, the building principal may decide to meet with the parent and/or student to discuss educational services presently being offered and to determine whether the student would benefit from additional general education support services as an alternative to special education, including the provision of Support Services, Speech/Language Services, Remedial Instruction, and Academic Intervention Services and any other services designed to address the learning needs of the student and maintain his or her placement in

general education. The professional staff member who made the referral should also attend this meeting. If at the meeting, the parent and the building administrator agree in writing that, with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide the chairperson of the Committee on Special Education, the person who made the referral if a professional staff member of the district, the parent and the student, if appropriate, with copies of the agreement. All such agreements with withdrawal of a CSE referral must be in writing and must specify the general education support services and instructional strategies to be used and student centered data to be collected to resolve the identified learning difficulty of the student and provide the opportunity for a follow-up conference within an agreed upon period of time to review the student's progress. A copy of the agreement becomes a part of the student's cumulative educational record. A copy of the agreement must be in the native language of the parent.

If the referral to CSE is not withdrawn by agreement, and the parent does not consent to the initial evaluation within **thirty (30) days** of the date of receipt of referral, the CSE chairperson shall document attempts, including but not limited to, telephone calls made or attempted and the results of those calls and correspondence sent to the parents and any responses received by the Chairperson or other representatives of the committee to obtain parental consent and shall notify the board of education that they may utilize due process to permit the district to conduct and evaluation of the student without the consent of the parent.