



**Elmsford Union Free School District**

District Policies, Practices and Procedures for Assuring  
Appropriate Educational Services and Due Process in  
Evaluation and Placement of Students with Disabilities

2021-2023

Board of Education Approved: 2/3/2021

## **Elmsford Union Free School District**

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**ELMSFORD UNION FREE SCHOOL DISTRICT**

**Mission Statement**

**Optimize teaching and learning for student achievement.**

## Table of Contents

	Pages
Section 1 – Introduction	5-18
Section 2 – Committee on Preschool Special Education	19-26
Section 3 – Committee on Special Education and Sub-Committee on Special Education	27-37
Section 4 – Additional Evaluation, IEP, and Placement Considerations	38-52
Section 5 – Language Proficiency Team	53-60
Section 6 – Procedural Safeguards	61-69
Section 7 – Records Access and Confidentiality	70-76
Section 8 – Discipline	77-82
Section 9 – Accessibility	83
Section 10 – Miscellaneous	84-89
Section 11 – District Programs	90-99
Section 12- 504 Accommodation Plan	100-103
APPENDICES	104
Appendix A Referral to CSE form	105-106
Appendix B Procedural Safeguards	107
Appendix C Diploma and Credential Options	108-109

**SECTION 1:**  
**INTRODUCTION**

**Special Note Regarding Pandemic**

Jo-Anne Dobbins is our Director of Special Education and Pupil Personnel Services. She oversees all aspects of Special Education, ENL, Guidance, Nursing, and Dual Language in our Reopening Plan. The Elmsford Union Free School District reopening plan provides a framework to ensure that all students with disabilities continue to have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living in the least restrictive environment (LRE). In consideration of the health, safety, and well-being of students, families, and staff, our plan is designed to enable transitioning between in-person, remote, and hybrid learning environments to ensure the provision of FAPE consistent with the changing health and safety conditions that exist.

Special education programs and services of Elmsford provide equity and access for students with disabilities to be involved in and to participate and progress in the general education curriculum with access to the necessary accommodations, modifications, supplementary aids and services, and technology (including assistive technology) to meet the unique disability related needs of students. While not all formats allow for maximum benefit to students, these programs and services can be provided in all formats (live-person, hybrid, or remote). Elmsford UFSD will document the programs and services offered and provided to students with disabilities as well as to the communications with parents in their preferred language and mode of communication. The district will ensure access to the necessary accommodations, modifications, supplementary aids and services, and technology (including assistive technology) to meet the unique disability related needs of students.

Elmsford UFSD is committed to providing meaningful parent engagement in the parent's preferred language or mode of communication regarding the provision of services to his/her child to meet the requirements of the IDEA. Further, we will maintain regular communication with the parents/guardians to ensure that they are engaged in their children's education during the reopening process.

Elmsford UFSD will plan and support collaboration between the committees on preschool special education (CPSE) and committees on special education (CSE) and program providers representing the variety of settings where students are served to ensure there is an understanding of the provision of services consistent with the recommendations on individualized education programs (IEPs), plans for monitoring and communicating student progress, and commitment to sharing resources to the best of our abilities.

Elmsford UFSD will maintain records to document the implementation of each IEP. The documentation will include, but will not be limited to: progress notes, progress monitoring, formative assessment, standardized assessment, attendance records and the provision of any mandated compensatory services during the 2020-21 school year.

**Vulnerable Students with Special Needs:**

Some special needs students who are medically fragile may not be able to maintain social distancing, hand or respiratory hygiene, or wear a face covering or mask. It is important for parents/ guardians to work with their child’s healthcare providers and the school nurse located at the student’s school so that an informed decision can be made on how best to meet the child’s needs at school while protecting their health and safety. As these students transition back to the school environment, our school health personnel will plan and coordinate with the following so that a healthy transition is made:

- teaching/related service staff
- special education administration
- building administration.

Students who have family members who are in high risk groups may also need to attend school remotely.

Additional PPE for staff caring for such students will be provided on a case-by-case basis. Staffing assignments will be examined to provide the lowest teacher-to-student ratios possible while following the guidelines of the Department of Health and Center for Disease Control.

### Program Objectives for Students with Disabilities

The Elmsford Union Free School District is committed to the development and implementation of an appropriate education for students with disabilities who reside in the district in accordance with the following program objectives:

To ensure the establishment of a plan and policies for implementing school-wide approaches and pre-referral interventions in order to remediate a student's performance prior to referral to special education (Response to Intervention).

To provide a free, appropriate, public education in the least restrictive environment for resident children between the ages of three (3) and twenty-one (21) or until a high school diploma (Regents or Local) has been achieved by the student, whichever shall occur first.

To ensure that students with disabilities have the opportunity to participate in school district programs to the maximum extent appropriate to the need of each student, including access to general education curriculum and extracurricular programs and activities, which are available to all other students enrolled in the public schools of the district.

To establish a Committee on Preschool Special Education (CPSE), a Committee on Special Education (CSE) and appropriate Subcommittees on Special Education for the purpose of evaluating students suspected of having disabilities and for placement of students with disabilities in appropriate programs. The CPSE and CSE will monitor the progress of all students with disabilities.

To ensure effective communication and collaboration between the Committee on Special Education, the Committee on Preschool Special Education, school staff and school district administrators, parents and the community.

To ensure that parents are advised of their due process rights and to establish procedures in this regard.

To ensure that each preschool student with a disability residing in the district has the opportunity to participate in an appropriate preschool program or services.

To provide for the establishment of administrative practices and procedures to ensure that parents have received and understand the request for consent for evaluation of a preschool student.

To ensure the establishment of administrative policies, practices and procedures to implement the provisions of Section 200.6(a) of the Commissioner's Regulations and to provide Special Education programs or services, to the extent appropriate to the needs of the student, to enable the student to be involved in and progress in the general education curriculum.

To provide the human and material resources necessary for the implementation of a continuum of programs and services to meet the academic, social, physical and management needs of students with disabilities.

To provide, to the greatest extent appropriate, adaptation, and/or modification of instruction and materials to enable students with disabilities to benefit from instruction within the general education setting, whenever appropriate.

To ensure that students with disabilities have access to the full range of general education programs and services to the extent appropriate to their individual needs and to provide them appropriate opportunities to earn a high school diploma in accordance with Section 100.5 of the Regulations of the Commissioner of Education.

To ensure that a discipline code for student behavior is in place, while protecting the rights to continuity of appropriate education for students with disabilities (Code of Conduct).

To ensure that adequate and appropriate space is made available to meet the needs of students with disabilities.

To ensure that students who reside in the District have received the protection of all other applicable State and Federal laws and regulations.



## Implementation of School-Wide Approaches And Pre-Referral Interventions

In accordance with the IDEIA, IDEA and Part 200 of the Commissioner's Regulations, the Elmsford Union Free School District must develop a policy and implement a plan to establish pre-referral interventions to assist a student's education process before consideration of referral to the Committee on Special Education (CSE). In keeping with this policy, it is the responsibility of the school's principal and building level team to investigate all possible avenues of general education support services that would enable the student to achieve the learning standards. Such services may include, but are not limited to, Academic Intervention Services and educationally related support services. The CSE services must be afforded to all students who do not meet the minimum designated standards on State assessments, and to English Language Learner (ELL) students who do not achieve the annual CR Part 154 performance standards. A description of the CSE services will be approved by the Board of Education and reviewed every two years. Supplemental instruction in English language arts, math, social studies, and science as well as support services to deal with barriers to student progress such as attendance, discipline, health, family nutrition, and transient issues will be afforded to students who score below 3 on elementary or intermediate state assessments or who score below the local state designated performance levels on any one of the state examinations required for graduation. All school-wide approaches to provide remediation activities for students who are at-risk of not meeting state standards or graduation requirements will be considered prior to making referrals to the CSE. The CSE approaches may also include but are not limited to extra teacher or teacher aide/assistant support, student or volunteer tutorial assistance, counseling support, and computer assisted programs. The principal shall notify each student's parents whenever Academic Intervention Services (AIS) are provided and shall ensure that written progress reports are provided in the language of the parents. The school-wide approaches shall serve as pre-referral interventions prior to consideration of special education programs through the Committee on Special Education (CSE).

## DEFINITIONS

Students with disabilities are those whose special needs are significant enough to warrant provisions of special educational services in accordance with an individualized program. Effective October 30, 1990, Congress substituted the term “children with disabilities” for the term “handicapped children” in the Federal law establishing access to fair procedures and appropriate placements<sup>1</sup>.

The following statutory and regulatory definitions are controlling: The term student with a disability means a student with a disability, who has not attained the age of 21 prior to September 1<sup>st</sup> and who is entitled to attend public schools pursuant to section 3202 of the Education Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires Pupil Personnel Services and programs approved by the Department of Education. Such term does not include a student whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. In making a determination as to eligibility, a student shall not be determined to be a student with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency.

The term “all students” applies to every student listed on the registry of the district.

The term “special education” means specially designed individualized or group instruction or Pupil Personnel Services or programs as defined in subdivision 2 of Section 4401 of the Education Law, and special transportation, provided at no cost to the parent, to meet the unique needs of student with disabilities.

- a) Such instruction included but is not limited to that conducted in classroom, homes, hospitals, institutions and in other settings.
- b) Such instruction includes specially designed instruction in physical education, including adaptive physical education.

The term “modified 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.

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<sup>1</sup> Legal reference: Individuals with Disabilities Act (IDEA), formerly the Education of the Handicapped Act (EHA), 20 U.S.C. Section 1400-1485

The term “pupil personnel services or programs” may include:

- a) Special classes, transitional support services, resource rooms, related services, consultant teacher services, declassification support services, integrated co-teach classes, and home instruction
- b) Contracts with other districts for Pupil Personnel Services or programs
- c) Contracts for Pupil Personnel Services or programs provided by Boards of Cooperative Educational Services (BOCES)
- d) Appointment by the Commissioner to a state or state-supported school in accordance with Article 85, 87, or 88 of New York State law
- e) Contracts with private non-residential schools, which have been approved by the Commissioner and which are within the state.
- f) Contracts with private non-residential schools, which have been approved by the Commissioner and which are outside of the state.
- g) Contracts with private residential schools, which have been approved by the Commissioner and which are within the state
- h) Contracts with private residential schools, which have been approved by the Commissioner and which are outside of the state
- i) Provision of educational services in a residential facility for the care and treatment of students with disabilities under the jurisdiction of a state agency other than the New York State Department of Education
- j) Contracts for residential or non-residential placements with a special act school district listed in Chapter 566 of the laws of 1967.
- k) Contracts with New York State approved and funded schools (Article 89)

Additional Definitions:

- Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language therapy, audiology services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, vision services,

hearing services, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services.

- Change in placement means a transfer of a student to or from a public school, BOCES, or schools enumerated in articles 81, 85, 87, 88, or 89 of the Education Law or graduation from high school with a Regents or Local or Credential. For purposes of removal of a student with a disability from the student's current education placement under Education Law 3214, change of placement is defined in Part 201 of the Regulations of the Commissioner of Education (April, 2012).
- General curriculum means the same curriculum for all students including students with disabilities.
- Individualized Education Program (IEP) means a written statement developed, reviewed and revised in accordance with section 200.4(d)(2) of the Regulations of the Commissioner of Education to be provided to meet the unique educational needs of a student with a disability.

## SPECIAL EDUCATION PROGRAM AND SERVICES: OVERVIEW

In accordance with Section 200.6 of the Regulations of the Commissioner of Education, the Elmsford Union Free School District provides a continuum of services which allows placement of preschool and school-age students in the least restrictive environment consistent with their needs and which provides for the placement of students on the basis of similarity of individual needs.

Special education students participate in the same school calendar as their general education peers.

School day means any day, including a partial day that students are in attendance at school for instructional purposes. The term school day has the same meaning for all students in school including students with disabilities and students without disabilities. Students with disabilities who are eligible for a twelve (12) month program will participate during the months of July and August. School day means every day except Saturday, Sunday and legal holidays, unless otherwise indicated as school day or business day.

Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).

### Least Restrictive Environment

The Elmsford Union Free School District provides a wide continuum of services, ranging from placement in residential settings to placement in mainstream classes with support and related services. The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. "Least restrictive environment" (LRE) means that the placement of students with disabilities in special classes, separate schools or other removal from the regular education environment occurs only when the nature or severity of the disability is such that even with the use of supplementary aids and services, education cannot be satisfactorily achieved.

- Placement shall be based on the student's individualized education program and determined at least annually.
- Placement shall be as close as possible to the student's home district, and unless the student's individualized education program requires some other arrangement, the student shall be educated in the school he or she would have attended if not disabled.
- In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the student or on the quality of services that he or she needs; and
- A student with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Procedures to Implement Least Restrictive Environment  
Requirements

- The student will receive a comprehensive, nonbiased, individual evaluation in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so, to determine his/her educational needs. In making a determination of a student's eligibility, the CSE shall not determine a student to be a student with a disability if the determination factor is lack of instruction in reading or math or limited English proficiency. The CSE must review evaluation information to determine whether any additions or modifications to special education services are needed to enable the student to participate, as appropriate, in the general curriculum.
- Prior to placement in special education, the CSE will ensure that the appropriateness of the resources of the general education program, including educationally related support services, have been considered.
- A student's educational program will be developed with the meaningful involvement of the student's parent/guardian, teacher, and the student, when appropriate. The CSE will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. IDEIA requires that at least one of the student's general education teachers, who is knowledgeable about the grade level curriculum, must be a member of the Committee (if the student is, or may be, participating in the general education environment). In addition, the representative of the school district qualified to provide or supervise the provision of special education services must be knowledgeable about the general education curriculum and the availability of resources of the school district. The individual knowledgeable about the evaluation data must be able to interpret the instructional implications of the evaluation results.
- The Committee on Special Education or Committee on Preschool Special Education will first consider placement in general education with appropriate support for the student and the student's teachers. The IEP must include statements of the student's present levels of educational performance, including how the disability affects involvement and progress in the general curriculum; or for preschool students, as appropriate, how the disability affects the child's participation in appropriate activities.
- Measurable annual goals, including benchmarks or short-term objectives, must be related to meeting the student's needs that result from the disability to enable the student to be involved in and progress in the general curriculum and meeting each of the student's other educational needs that result from the disability.
- Alternative placements, such as special classes, special schools or other removal from the general education environment, will be considered only when the CSE/CPSE determines that a student's education in regular classes cannot be satisfactorily achieved even with the use of supplementary aids and services.

- The IEP of the student will include an explanation of the extent to which the student will not participate with students who do not have disabilities.
- The parent or guardian and the Board of Education will be provided a recommendation from the CSE/CPSE, which describes the program and placement options considered for the student and a rationale for options not selected.
- The CSE/CPSE must indicate clearly defined expected benefits to the student from the special education program selected in the areas of academic or educational achievement and learning characteristics, social development, physical development and management needs.
- The CSE/CPSE will conduct an annual review of the student's needs for continuation or modification of the provision of special education programs and services. Such review shall consider the educational progress of the student and the student's ability to participate in general education programs.

The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. The District provides the full continuum of services as described in 200.6 of the Commissioner's Regulations.

### Similarity of Needs

Whenever students with disabilities are grouped together for purposes of special education, they are grouped by similarity of need. The CPSE and CSE identify educational needs in accordance with the following factors:

Academic or Educational Achievement and Learning Characteristics – The levels of knowledge and development in subject and skill areas, including activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information and learning style.

Social Development – The degree and quality of the student's relationships with peers and adults, feelings about self and social adjustment of school and community environments.

Physical Development – The degree or quality of the student's motor and sensory development, health, vitality and physical skills or limitations which pertain to the learning process.

Management Needs – The nature of and degree to which environmental modifications and human or material resources are required to enable the student to benefit from instruction.

All students with disabilities who reside in the Elmsford Union Free School District shall be provided with an appropriate Individual Education Program (IEP) that meets the student's unique educational needs as determined and recommended by the Committee on Special Education (CSE) and arranged for by the Board of Education. This IEP shall be designed to enable involvement and foster progress in general education to the extent appropriate to the needs of the

student. In designing the IEP, the CSE will consider the present levels of performance and the expected learning outcomes of the student. The student's academic, social development, physical development, and management needs will be the basis for written annual goals and short-term objectives.

In keeping with this policy, the CSE will consider mainstreaming classes at each initial, program or annual review for the student as well as the appropriate support or related services needed for the student to make educational progress within this environment. Progress or educational benefit shall be indicated by successful academic progress, including improvement in skills, achievement on State mandated examinations, ability to perform activities of daily living and an increase in adaptive behavior. Progress will also be considered in the social areas, including relationships with peers and adults, feelings about one's self, and the adjustment to school and community environments. Physical development areas such as the student's improvement in motor or sensory areas, health, vitality and physical skills and the decrease of management needs that require environmental modifications or human resources shall also be considered as progress.

The District will ensure equal access to a diploma for all students with disabilities through its establishment of heterogeneous Regents classes, consultant classes, and special education classes that provide equivalent instruction. Appropriate academic intervention services shall also be considered and determined by the building principal to assist students with disabilities in meeting their academic goals. The CSE services shall be in addition to the education services deemed appropriate by the CSE. No student, by virtue of designation as a student with a disability, shall be precluded from receiving equivalent instruction unless the CSE has determined that the student requires a Skills and Achievement Commencement Credential. If the student has the potential to achieve a Regents or high school diploma but requires a restrictive environment outside the District, the CSE will seek placement in a program that provides equivalent instruction.

The District will also ensure equal access for students with disabilities to after school activities such as clubs, sports, or evening activities and will provide, as recommended by the CSE, appropriate services to enable this participation. Students, who are receiving education in out of district facilities, as recommended by the CSE, shall also have an equal opportunity to participate in the CSE activities, as deemed appropriate to meet their individual needs.



Committee on Special Education (CSE) and Committee on  
Preschool Special Education (CPSE) Appointment and  
Training

To implement its commitment to the education of students with disabilities, the Board of Education annually appoints a Committee on Special Education (CSE), Subcommittee on Special Education, and a Committee on Preschool Special Education (CPSE). The Committees are appointed in accordance with the provisions of New York Education Law, Sections 4402 and 4410 and Section 200.3 of the Regulations of the Commissioner of Education. Section 4410 of the Education Law, which established the Committee on Preschool Special Education, was signed into law on July 5, 1989, and the CPSE was established for the first time during the 1989/1990 school year. Major functions of the CSE and CPSE include:

- Identifying, evaluating and recommending placement for students with disabilities;
- Assuring that appropriate due process safeguards are provided for each student;
- Maintaining an annually revised register of all students with disabilities who reside in the District and who are eligible to attend preschool or public school during the coming school year;
- Establishing a network for communication and sharing of resources with other educational and community service agencies;
- Reporting to the State Education Department on the number of preschool students, if any, within the District, who are not receiving appropriate preschool services and the reasons for any such lack of service.

Responsibilities

The Committees have the responsibility to ensure that all necessary procedures for the identification, diagnosis, placement and annual review of the status and progress of every student with a disability are carried out in accordance with Federal and State Law and regulations. Subcommittees on Special Education are authorized to perform the functions of the Committee on Special Education except when a student is considered for a more restrictive environment or initial placement in:

- A special class; or
- A special class outside of the student's school of attendance; or
- A school primarily serving students with disabilities in a school outside the student's district.

Upon written request from a parent or guardian, the Sub CSE will immediately refer to the Committee on Special Education for its review on any recommendation of the Subcommittee concerning the identification, evaluation, educational placement or provision of a free appropriate public education to a student that is not acceptable to the parent or person in parental relationship to the student.

The Committee on Special Education is responsible for the oversight and monitoring of the activities of each Subcommittee to assure compliance with federal and state law and regulations.

### Training CSE/CPSE Members

The District is committed to ensuring that all members of the CSE and CPSE are appropriately trained for their responsibilities on their respective committees. Committee members are made aware of their responsibilities to ensure that services are identified to allow the student to be involved in and progress in the general education curriculum. Specific administrative practices for training the CSE members, including general education teachers and parents/guardians, to carry out the provisions of Part 200 include:

- Arranging for attendance at meetings of CSE/CPSE issues;
- Conducting district-based training;
- Providing copies of written guidelines pertaining to district practices and procedures for referring and evaluating preschool and school-age students suspected of having a disability;
- Disseminating the Guidebook for Committees on Special Education in New York State, Part 200 of the Commissioner's Regulations, all amendments to the Regulations of the Commissioner, and informational bulletins and pamphlets, including memorandum from the State Education Department, to all committee members;
- Utilizing the District attorney as a resource person, if needed to interpret specific information for the committee members.

### General Staff Development

As part of an ongoing effort to assist special and mainstream teachers to better understand the needs of students with special needs, staff development plays a critical role in preparing teachers to work with diverse learners.

For those teachers who are involved in the integrated co-teach program, ongoing staff training consists of integrated co-teach models and adapting curriculum for students with special needs. District will focus on differentiated instruction.

In addition to staff meetings, in-service courses, Superintendent's Conference Day, as well as individual meetings between special and mainstream teachers occur.

## SECTION 2

### COMMITTEE ON PRESCHOOL EDUCATION (CPSE)

#### Membership

At its yearly organization meeting, the Board of Education shall appoint a Committee on Preschool Special Education comprised of at least the following mandated members:

- a. The parents of the preschool child;
- b. Not less than one regular teacher of the child whenever the child is or may be participating in the regular education environment;
- c. Not less than one special education teacher of the child, or, if appropriate, not less than one special education provider of the child;
- d. A representative of the school district who is qualified to provide or supervise special education and is knowledgeable about the general education curriculum and the availability of preschool special education programs and services and other resources of the school district and the municipality. The representative of the school district will serve as the chairperson of the committee;
- e. An additional parent member of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, if specifically requested in writing by the parent of the student or by a member of the committee at least 72 hours prior to the meeting.
- f. An individual who can interpret the instructional implications of evaluation results, provided that such individual may also be the individual appointed as the regular education teacher, the special education teacher or special education provider, the school psychologist, the representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the committee;
- g. Other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the school district or the parents shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the committee on special education;
- h. For a child in transition from early intervention programs and services, at the request of the parent, the appropriate professional designated by the agency that has been charged with the responsibility for the preschool child; and
- i. A representative of the municipality of the preschool child's residence, provided that the attendance of the appointee of the municipality shall not be required for a quorum.

The Committee on Preschool Special Education (CPSE) is responsible for the evaluation of any student who is suspected of having a disability, who meets the age eligibility requirements

specified in the Regulations, and is a resident of the Elmsford Union Free School District. The evaluation process begins when a written request for evaluation is made by either:

- The student's parent/guardian
- A professional staff member of the school district in which the student resides or the public or private school the student legally attends
- A staff member of a preschool program
- A staff member of a program serving infants and toddlers or preschool students
- A licensed physician or judicial officer
- A representative of a public agency with responsibility for the welfare, care or education of students

The referral can be made at any time during the school year. It should specify the extent to which the preschool student has received services prior to the referral, if any. When the CPSE receives a referral, the chairperson will meet with the parent describing the evaluation procedures and request parental consent for the evaluation. A list of County approved evaluation sites will be provided to the parent. Translations will be provided as needed. In the event that consent is not provided, the Committee shall implement the District's practices for ensuring that the parents have received and understood the request for consent.

The individual evaluation of a preschool child shall include relevant functional and developmental information regarding the child's abilities and needs relating to participation in age-appropriate activities.

This evaluation will include the following, at no cost to the parent:

- An individual psychological examination, except when a school psychologist determines after an assessment that further evaluation is unnecessary;
- An educational evaluation when deemed necessary by the CPSE;
- An observation when deemed necessary by the CPSE;
- A social history; and
- Other appropriate assessments or evaluations as necessary to ascertain the physical, mental and emotional factors that contribute to the suspected disabilities.

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory and to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills. The CPSE will arrange for specialized evaluations where necessary. The CPSE assessments may include, but are not limited to, bilingual evaluations, psychiatric examinations, audiological evaluations, visual evaluations, and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time.

When completed, the evaluation reports will be submitted to the CPSE and a CPSE meeting will be scheduled. The parents will be provided with a copy of the summary reports prior to the

meeting. The results of the evaluations will be provided to the parent in their requested language or other mode of communication. Reasonable measures will be made to ensure that the parent attends the meeting. This means:

- A written notice is sent to the parent/guardian at least 5 days prior to the meeting, advising them of the meeting.
- Prior notice means written statements developed in accordance with Section 200.5(a) of the Part 200 Commissioner's Regulations, and provided to the parent/guardian of a student with a disability at a reasonable time before the school district proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.
- At least one (1) additional attempt is made to notify parent/guardian. This may mean additional written notice or telephone call.
- CPSE meetings are arranged at a mutually agreeable time.

The CPSE submits a recommendation to the Board of Education and to the parent/guardian of the preschool student within sixty (60) school days of the date of the receipt of consent. If the Committee determines the student is ineligible for special education, written notification will indicate the reasons for the finding. If the Committee determines that a student has a disability, an Individualized Education Program (IEP) is prepared which specifies the nature of the disability, the student's current levels of functioning, including how the disability affects the student's participation in appropriate activities, measurable goals, including benchmarks or short-term objectives, and the type of special education program and/or services recommended. The CPSE will seek, in every case, to recommend placement in the least restrictive environment consistent with the needs of the student. Also, the Committee shall first consider providing special education services in a setting where age-appropriate peers without disabilities are found. If, for any reason, the recommendation of the Committee differs from the preference of the parent, the report shall include the reasons for the Committee's recommendations. The notice will also indicate that, in the event the parent/guardian does not provide consent for placement, no further action will be taken by the CPSE until such consent is obtained.

### Definition “Preschool Student with a Disability”

“Preschool student with a disability” is a preschool child as defined in Section 4410(1)(i) of Education Law who is eligible to receive preschool programs and services, is not entitled to attend the public schools of the school district of residence pursuant to Section 3202 of the Education Law and who, because of mental, physical, or emotional reasons, has been identified as having a disability and can receive appropriate educational opportunities from special programs and services approved by the department. Eligibility as a preschool student with a disability shall be based on the results of an individual evaluation which is provided in the student’s dominant language, not dependent on a single procedure, and administered by a multi-disciplinary team in accordance with all other requirements as described in Section 200.4(b)(1) through (5) of the Commissioner’s Regulations.

Commencing July 1, 1993, to be identified as having a disability a preschool student shall either:

- Exhibit a significant delay or disorder in one or more functional areas related to cognitive, language and communicative, adaptive, socio-emotional or motor development which adversely affects the student’s ability to learn. Such delay or disorder shall be documented by the results of the individual evaluation which includes but is not limited to information in all functional areas obtained from a structured observation of a student’s performance and behavior, a parental interview and other individually administered assessment procedures, and, when reviewed in combination and compared to accepted milestones for child development, indicate:
  - A 12 month delay in one or more functional area(s); or
  - A 33 percent delay in one functional area, or a 25 percent delay in each of two functional areas; or
  - If appropriate, standardized instruments are individually administered in the evaluation process, a score of 2.0 standard deviations below the mean in one functional area, or a score of 1.5 standard deviations below the mean in each of two functional areas; or
  - Meet the criteria set forth in paragraphs (1), (2), (3), (5), (9), (10), (12) or (13) of subdivision (zz) of the Commissioner’s Regulations.
  - Commencing July 1, 1991, in the calendar year in which such preschool student becomes three years of age, a student shall be first eligible for preschool programs and services on January 2 of such calendar year, if
    - The student’s birthday falls before July 1<sup>st</sup>, otherwise a student shall be first eligible on July 1<sup>st</sup> of the calendar year; except that a student, who, as of his or her third birthday, is already receiving services pursuant to Section 236 of the Family Court Act or its successor, or Section 4204-a of the Education Law, may, if the parent so chooses, continue to receive such services through August 31<sup>st</sup> of the calendar year in which the student first becomes eligible to receive services pursuant to Section 4410 of the Education Law. A student shall be deemed to be a preschool student with a disability through the month of August of the school year in which the student first becomes

eligible to attend school pursuant to Section 3202 of the Education Law.

### Placement

Upon receipt of the CPSE's recommendation, the Board of Education will arrange for the student to receive appropriate special programs and services. Services will not be provided without parent/guardian's consent but if the parent/guardian disagrees with the recommendation of the Board and prefers an alternative program, he/she may request special education mediation or an impartial hearing review and may appeal the decision to the Commissioner of Education. Review of placement decisions will be conducted in accordance with the same rules of procedural due process applicable to the placement of school-aged students. Placement in an approved program will take place as soon as possible following the Board of Education's approval. If the Board of Education disagrees with the Committee's recommendation, it may ask the Committee for further review.

### Annual Review

An annual review is conducted for every preschool student who has been classified as having a disability. The purpose of the annual review is to determine the appropriateness of each student's Individualized Education Program (IEP) and the need to continue or modify the student's preschool special education program. The yearly review ensures that the IEP will continue to meet the student's educational needs. In addition to the members of the CPSE, which includes the parent/guardian of the student, the student's teacher must also attend, if in school. Parent/guardian will receive a written notice at least 5 days prior to the meeting that indicates the time, date, location and persons expected to attend. Reasonable measures will be taken to ensure that the parent/guardian attends the meeting. This notice must also inform the parent/guardian that they may invite other persons to attend the meeting, who have knowledge or special expertise regarding the student.

### Withdrawal of Referral

Written consent of the parent/guardian is required prior to initiating an evaluation for a student who has not previously been identified as having a disability. In the event that parent/guardian permission is withheld, the parent shall be given the opportunity to attend an informal conference with a designated professional most familiar with the proposed evaluation. If, at this meeting the parent/guardian decides that the referral is not warranted, the referral shall be withdrawn.

Continuum of Services  
Committee on Preschool Special Education

If the CPSE determines that a student needs a single service that service must be provided only as a related service or only as a special education itinerant service.

Related Services

Those related services defined in Section 4401 of Education Law, i.e., speech pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services, medical services as defined by regulation, parent counseling and training, school health services, school social work, or other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services. Related services are provided at a site determined by the Board of Education including, but not limited to:

- An appropriate or licensed pre-kindergarten
- A Head Start program
- The worksite of the provider
- The child's home
- A state facility
- A childcare location

The initial location for the delivery of one or more related services must be stated on the IEP.

Special Education Itinerant Services

Provided by a certified special education teacher of an approved program on an itinerant basis at a site determined by the Board of Education including, but not limited to:

- The worksite of the provider
- A Head Start program
- A student's home
- A hospital
- A state facility
- A childcare location

*Students are entitled to services in the home if the Board of Education determines that documented medical or special needs indicate that the student should not be transported to another site.*

Changes of location for the provision of services may occur without the review of the CPSE.

The purpose of Special Education Itinerant Services is to provide individual or group instruction and/or direct services to preschool students with disabilities.



- Direct Services: specialized individual or group instruction to a preschool student to aid the student from benefitting from the early childhood program.
- Indirect Services: consultations provided by a certified special education teacher to assist the student's teacher in adjusting the learning environment or modifying instructional methods to meet the individual needs of a preschool student with a disability who attends an early childhood program.

Special Education Itinerant Services are provided not less than two hours per week, and the total number of students with disabilities assigned to the special education teacher should not exceed 20.

### Integrated Special Class

This is a special class of no more than twelve (12) preschool students which is staffed by at least one special education teacher and one paraprofessional. A special class in an integrated setting may be provided:

- In a class of no more than twelve preschool students with disabilities staffed by a special education teacher and a paraprofessional which is housed in the same special space as a preschool class with non-disabled students taught by another teacher.

### Special Class (Half or Full Day)

A special class is defined as a class consisting of students with the same disabilities who have been grouped together because of similar individual needs for the purpose of being provided a special education program in a special class.

- Chronological age range within special classes shall not exceed 36 months.
- Maximum class size shall not exceed 12 preschool students with at least one teacher and one paraprofessional.
- Services provided not less than 2.5 hours per day, 2 days per week.

### Residential Special Education Programs and Services

This program is a minimum of five hours per day, 5 days per week, for twelve months. Placements in residential programs must be approved by the Commissioner in accordance with Part 200.6 (I) of the Commissioner's Regulations.

### Re-Evaluation

In the event a preschooler with a disability is due for the triennial re-evaluation to be complete, the Director of Special Education will initiate the evaluation.

### Transition from CPSE to CSE

All preschool students with an IEP will have an annual review. At the annual review in which the CPSE will be discussing the school year the child will be eligible for kindergarten (5 years old by December 1<sup>st</sup>), if service is still required for the child to attend school, a referral will be made to the Committee on Special Education. The Committee on Special Education will hold a transition meeting to determine eligibility for special education as defined in Part 200.1 (zz).

**SECTION 3**  
**COMMITTEE ON SPECIAL EDUCATION**

**CSE Membership**

The membership of the Committee on Special Education shall include, but not be limited to:

- a. The parent(s) or person(s) in parental relationship to the student;
- b. Not less than one general education teacher of the student whenever the student is or may be participating in the general education environment;
- c. Not less than one special education teacher of the student, or, if appropriate, not less than one special education provider of the student;
- d. School psychologist;
- e. A representative of the school district who is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of resources of the school district, provided that an individual who meets these qualifications may also be the same individual appointed as the special education teacher or the special education provider of the student or the school psychologist. The representative of the school district shall serve as the chairperson of the committee.
- f. An individual who can interpret the instructional implications of evaluation results. Such individual may also be the individual appointed as the general education teacher, the special education teacher or special education provider, the school psychologist, the representative of the school district or a person having knowledge or special expertise regarding the student when such member is determined by the school district to have the knowledge and expertise to fulfill this role on the committee.
- g. A school physician, if specifically requested in writing by the parent of the student or by a member of the school at least 72 hours prior to the meeting.
- h. An additional parent member of a student with a disability residing in the school district or a neighboring school district, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years. Such parent is not a required member if the parent(s) of the student request that the additional parent member not participate in the meeting.
- i. Other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the school district or the parent(s) shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parent(s) or school district) who invited the individual to be a member of the committee on special education; and
- j. If appropriate, the student.

### Sub CSE Membership

The membership of the subcommittee on special education shall include, but not be limited to:

- a. The parent(s) or person(s) in parental relationship to the student;
- b. Not less than one general education teacher of the student whenever the student is or may be participating in the general education environment;
- c. Not less than one special education teacher of the student, or, if appropriate, not less than one special education provider of the student;
- d. A representative of the school district who is qualified to provide, administer or supervise special education and who is knowledgeable about the general education curriculum and who is knowledgeable about the availability of resources of the school district. The representative of the school district shall serve as the chairperson of the subcommittee.
- 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(h)(4) of the Commissioner's Regulations.
- f. An individual who can interpret the instructional implications of evaluation results, who may be a member appointed as described in section b through e;
- g. Such other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or parent shall designate;
- h. The student, if appropriate.

### Definitions: “Student with a Disability”

The term “student with a disability” includes the following classifications:

**Autism** - means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3 that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's education performance is adversely affected primarily because the student has an emotional disturbance as defined under the definition for Emotional Disability. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.

**Deafness** - means a hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

**Deaf-Blindness** - means a concomitant hearing and visual impairment, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated in special education programs solely for students with deafness or blindness.

**Emotional Disability** - means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

- an inability to learn that cannot be explained by intellectual, sensory, or health factors.
- an inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- inappropriate types of behavior or feeling under normal circumstances.
- a generally pervasive mood of unhappiness or depression; or
- a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to socially maladjusted students unless it is determined that they have an emotional disturbance.

**Hearing Impaired** - means a hearing impairment, whether permanent or fluctuating, which adversely affects the child's educational performance but which is not included under the definition of deafness in this section.

**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) of this Part. The term includes such conditions as

perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include students who have learning problems which are primarily the result of visual, hearing or motor disabilities, of an intellectual disability, of emotional disability, or of environmental, cultural or economic disadvantage.

**Intellectual Disability** - means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

**Multiply Disabilities** - means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.) the combination of which prevents educational needs being accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.

**Other Health Impaired** - means limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, including but not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, lead poisoning, leukemia diabetes, attention deficit disorder or attention deficit hyperactivity disorder or Tourette's Syndrome, which adversely affects a student's educational performance.

**Orthopedically Impairment** - means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputation, fractures and burns which cause contractures).

**Speech or Language Impairment** - means a communication disorder, such as stuttering, impaired articulation, language impairment or a voice impairment, which adversely affects a student's educational performance.

**Traumatic Brain Injury** - means an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, and anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate to severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not include injuries that are congenital or caused by birth trauma.

**Visual Impairment** – (including blindness) means impairment in vision, that even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

## PROCEDURES OF THE COMMITTEE ON SPECIAL EDUCATION (CSE)

### Referral

In accordance with New York State Education Law Section 4402 and Part 200.2, 200.4 and 200.5 of the Commissioner's Regulations, the CSE is responsible for evaluating all school-age children 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) days of the date of receipt of consent for evaluation. Referrals can be made at any time during the twelve-month 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 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 the Commissioner's Regulations.

### Referral for an initial evaluation

A referral for an initial evaluation may be made by:

- A student's parent as defined in Section 200.1(ii) of the Commissioner's Regulations;
- 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; and/or
- 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.
- A determination by a school psychologist of the need to administer an individual psychological evaluation to a student of school age pursuant to Education Law, section 400(1)(b)(3)(a) and section 200.1(aa) and (bb) of the Commissioner's Regulations, shall be based upon an assessment conducted by the school psychologist to substantiate his or her determination. Whenever a school psychologist determines that a psychological evaluation is unnecessary as a component of an initial evaluation, the psychologist shall prepare a written report of such assessment, including a statement of the reasons such evaluation is unnecessary, which shall be reviewed by the committee.
- Notwithstanding any provisions of this subdivision or section 200.1(aa) of the Commissioner's Regulations to the contrary, the committee on special education

may direct that additional evaluations or assessments be conducted in order to appropriately assess the student in all areas related to the suspected disabilities.

### Consideration of Special Factors

The CSE shall:

- In the case of a student whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions, and supports, to address that behavior;
- In the case of a student with limited English proficiency, consider the language needs of the student as such needs relate to the student's IEP;
- In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the CSE determines, after an evaluation of the student's reading and writing skill needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or use of Braille is not appropriate for the student;
- Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range needs, including opportunities for direct instruction in the student's language and communication mode;
- Consider whether the student requires assistive technology devices and services, including whether the use of school purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education;
- Include a statement in the IEP if, in considering the special factors listed above, the committee has determined a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.
- If the committee determines that the student is ineligible for special education:
  - The committee will provide notice to the parent of the recommendation. The parent will receive procedural safeguards and a copy of the evaluation report and the documentation of determination for ineligibility.
  - The committee will provide recommendations to the building Administrator for consideration of educationally related support services (ERSS) to address student's needs.
  - The committee will provide the recommendations to the Board of Education.

If the student has been receiving special education services, but is determined by the Committee on Special Education that the student no longer needs special education services and can be placed in a general education program on a fulltime basis, the recommendation shall:

- Identify the declassification support services as identified in section 100.1(q), if any, to be provided to the student, and/or the student's teachers; and



- Indicate the projected date of initiation of the services, frequency of provision of the services, provided that the CSE services shall not continue for more than one year after the student enters the full-time general education program.

If the committee determines that the student is eligible for special education:

- The committee will develop a written recommendation (IEP).
- The committee will document least restrictive environment considerations.
- The committee will document special considerations for students whose behavior impedes learning, students who are deaf or hard of hearing, students who are blind or visually impaired, students with limited English proficiency and students who need assistive technology devices or services.
- Send a copy of the evaluation report and the documentation of determination of eligibility to the parent along with the Procedural Safeguard Notice; and
- Request parental consent for initial placement (including, if appropriate, initial recommendation for twelve (12) month programs and services).

The committee will provide notice to a parent which includes:

- Within sixty (60) school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within sixty (60) school days of the referral for review of the student with a disability, the Board of Education shall arrange for appropriate special programs and services. If a recommendation is for placement in an approved in-state or out-of-state private school, the Board shall arrange for such programs and services within thirty (30) school days of the Board's receipt of the recommendation of the committee. Notice of the recommendation will be provided to the parent, including the procedural safeguards notice. If the Board of Education disagrees with the committee's recommendations, the Board may remand the recommendation back to the committee for reconsideration and provide notice to the parent. The Board may also establish a second committee to develop a new recommendation for the student:
  - If the Board disagrees with the recommendation of the second committee, it may remand the recommendation back to the second committee for additional reviews.
  - The Board must accept the recommendation of the second committee once the Board authorizes a second committee to make a new recommendation.
  - In all cases, the Board must arrange for programs and services within sixty (60) school days of receipt of consent to evaluate, except in those instances described above.

The CSE must ensure that each general education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of a student's IEP shall have access to a copy of the IEP; and each teacher and provider is informed of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student at no cost to the student's parents.

The school district must provide special education and related services to a student with a disability in accordance with the student's IEP and make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the student's IEP.

#### Annual Review, Triennial/Re-Evaluation and Declassification

An annual review is conducted for every resident student who has been classified as having a disability. Prior to conducting any new assessments, parental consent must be obtained. Parents are notified by mail in advance of this review. Reasonable measures are taken to ensure that the parent attends the meeting. If a revision of the IEP is recommended, it must address:

Any lack of expected progress toward the annual goals in the general curriculum, if appropriate;

- The results of any re-evaluation and any information about the student provided to, or by, the parents;
- The student's anticipated needs;
- Or other matters, including a student's needs for test accommodations and/or modification.

A comprehensive re-evaluation is arranged at least once every three years by a multi-disciplinary team or group of persons, including at least one teacher or other specialists with knowledge in the area of the student's disability. The triennial 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 general education and the student's continuing eligibility for special education. Re-evaluations are also initiated prior to the triennial requirement if requested by the student's parent or teacher. The results of any re-evaluations must be addressed by the committee on special education in reviewing and, as appropriate, revising the student's IEP. When evaluations are conducted with the purpose of determining continuing eligibility for special education, the CSE will provide a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent.

A variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parents, will be used in determining whether the student is, or continues to be, a student with a disability. Existing evaluation data on the student will be reviewed, including evaluations and information provided by the student's parents, current classroom-based assessments and observations and teacher and related service providers' observations.

The CSE must obtain informed parental consent prior to conducting any new test or assessment as part of a re-evaluation of a student with a disability, except that such informed parent consent need not be obtained if the district can demonstrate that it took reasonable measures to obtain such consent and the student's parent failed to respond. Reasonable measures will be defined as at least one telephone contact attempted and one additional note sent home either via mail or with the student. If the parent refuses consent, the district must resolve the matter through a mediation agreement or an impartial hearing before conducting the new assessment data as part of the re-evaluation. If the committee determines that no additional data is needed to determine

whether the student continues to be a student with a disability, the CSE will notify the parent of that determination, and the reasons for it and the right of the parent to request an assessment to determine whether the student continues to be a student with a disability. The committee will also indicate that it is not required to conduct such an assessment unless requested by the student's parent.

The CSE must evaluate a student with a disability in accordance with Section 614 before determining that the student is no longer a student with a disability. A copy of the evaluation report and the documentation of eligibility must be provided to the student's parent. When the CSE determines that a student no longer requires special education services, the Committee may recommend declassification support services to the student for no more than the first year in general education. Such services may include psychological, social work, speech and language services, non-career counseling, or the assistance of a teacher aide or consultant to the classroom teacher. Continuation of test modifications previously documented in a student's IEP must continue to be consistently provided to the student for the balance of his or her public school education. The school district is not required to conduct a re-evaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regent's diploma or exceeding the age eligibility for a free appropriate public education.

## CONTINUUM OF SERVICES COMMITTEE ON SPECIAL EDUCATION (CSE)

### Consultant Teacher Services

Consultant teacher services shall be for the purpose of providing direct and/or indirect services to students with disabilities enrolled full-time in general education classes including career and technical education. Such services shall be recommended by the Committee on Special Education to meet specific needs of such students and shall be included in the student's individualized education program (IEP). Consultant teacher services shall be provided in accordance with the following provisions:

- Each student with a disability requiring consultant teacher services shall receive direct and/or indirect services consistent with the student's IEP for a minimum of two hours each week.
- The total number of students with disabilities assigned to a consultant teacher shall not exceed twenty (20).

### Related Services

Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility service, medical services as defined by regulations, parent counseling and training, school health services, school social work,

assistive technology services, and/or other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services.

The frequency, duration and location of each service shall be in the IEP based on the individual student's need for the service.

- When a related service is provided to a number of students at the same time, the number of students in the group shall not exceed five.

### Resource Room

The resource room program is for the purpose of supplementing the general or special classroom instruction of students with disabilities who are in need of such supplemental programs.

The instructional group in each resource room period does not exceed five students who are grouped according to their similarity of need.

- Students shall spend a minimum of three hours per week and not more than 50 percent of the day in the resource room program.
- The total number of students assigned to a resource room teacher shall not exceed twenty-five at the middle and high school levels.
- Resource room services may be provided in a pull-out or push-in program or a combination of both.

### Integrated Co-Teach

Integrated co-teach services means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students. The maximum number of students with disabilities receiving integrated co-teaching services in a class shall be determined in accordance with the student's individual needs as recommended on the IEP, provided that the number of students with disabilities in such classes shall not exceed twelve students.

### Special Class

A special class is defined as a class consisting of students with the same disabilities or with differing disabilities who have been grouped together because of similar individual needs for the purpose of being provided a special education program. The chronological age range of students who are less than sixteen years of age shall not exceed thirty-six months.

### Out of District Placement

Students with disabilities whose needs are too intensive to be addressed appropriately in an in-district special education program, may be placed in one of the following listed from least restrictive to more restrictive:

- Special class operated by another school district
- A BOCES program
- An approved Private School (Day)
- 4201 or State Operated School
- An approved Residential Placement

### Home and Hospital Instruction

Students with disabilities who are recommended for home and/or hospital instruction by the CSE shall receive instruction as follows:

- Elementary school students (grades 1-6) will be provided a minimum of 5 hours of instruction per week;
- Secondary school students (grades 7-12) will receive a minimum of ten hours of instruction per week, preferably 2 hours daily.

### Declassification Support Services

Students exiting special education may be considered for declassification services.

Declassification support services are defined in the Part 100 regulations. Testing modifications may be continued until the student has completed the requirements for a Regent or local diploma or has exceeded the age requirements for remaining in a public school.

If a student has been receiving special education services but the Committee on Special education determines that the student no longer requires such services and can be placed in a general education program on a full-time basis, the committee can recommend, as appropriate, declassification support services not to exceed a period of one year. The IEP will identify the service(s); indicate the projected date of initiation and the frequency and duration of such service(s).

## **SECTION 4**

### **ADDITIONAL EVALUATION, IEP AND PLACEMENT**

#### **CONSIDERATIONS**

##### **Arrangement of Special Education Placements CPSE and CSE**

The Board of Education shall, upon receipt of the IEP recommendation, arrange for programs and services to be provided to a student with a disability after consideration of the recommendations of the Committee on Special Education. The Board shall notify the parent that this has been arranged.

For CPSE, the Board shall arrange for the services commencing with the July, September or January starting date, unless such services are recommended by the CPSE less than 30 days prior to, or after, such appropriate starting date, in which case the services shall be provided no later than thirty days from the recommendation of the Committee.

For CSE, evaluation and placement shall be completed within 60 days of receipt of consent to evaluate a student not previously identified as having a disability or within 60 days of referral for review of a student with a disability. For placement in approved in-state or out-of-state private school placements, the Board shall arrange for such programs and services within 30 days of receipt of the recommendation of the Committee on Special Education.

Because the placement of students is often a lengthy process, the Board authorizes the Superintendent of Schools, or designee, to act as its agent in making necessary arrangements to implement the appropriate recommended program/services prior to Board of Education review.

If the Board disagrees with the recommendation of the CSE, it shall set forth in writing a statement of its reasons and send the recommendation back to the Committee, 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 shall provide the parent with a copy of the statement and notice. The committee shall then submit its revised recommendation to the Board of Education.

##### **Declassification of Students with Disabilities**

The recommendation to declassify students with disabilities is the responsibility of the Committee on Preschool Special Education (CPSE) and the Committee on Special Education (CSE). As declassification constitutes a significant change of identification and placement, the CPSE/CSE shall re-evaluate the child prior to making this recommendation. The CPSE/CSE shall also provide prior notice, in the language or other mode of communication of the home, to the child's parent or guardian, that a re-evaluation is being sought for the purpose of considering declassification and request written consent for this evaluation. If initial request for consent for re-evaluation is unsuccessful, alternate measures will be taken to obtain consent and will be documented. If reasonable attempts have been made to obtain consent and have been documented, but no response is received from the parent or guardian, the CPSE/CSE shall re-evaluate the child without consent.

In order to determine the nature of this re-evaluation, the school staff including members of the CPSE/CSE and other qualified professionals may review the existing evaluation data on the student including evaluations provided by the parents or guardians, current class assessments, observations by teachers, reports by related service providers and other professionals. This review shall not constitute a CPSE/CSE meeting. On the basis of this review, the District may decide that no further data is needed. In this case, the CPSE/CSE shall notify the parents or guardians that further assessment has been deemed unnecessary and that they have a right to request further assessment to determine if their child continues to be a student with a disability. If the parent or guardian does not request further assessment, the CPSE/CSE may meet to review the existing information and to consider declassification. A copy of this informal evaluation report shall be made available to the parent or guardian.

In conducting the review, the CPSE/CSE will consider the student's ability to participate in instructional programs in general education, the student's benefit from special education, and the student's continued eligibility to be identified as a child with a disability according to the criteria set forth in IDEIA, the Part 200 Commissioner's Regulations and the District's existing policies and procedures. The CPSE/CSE must also consider the provision of educational and support services to the student upon declassification. Upon declassification, the CPSE/CSE shall identify any declassification support services, if needed, including the projected date of initiation of such services and the duration of the CPSE/CSE services. Declassification support services shall be provided for no more than one year following the declassification date. Recommendations for declassification support services and appropriate evaluation information shall be forwarded to the building administrator who shall determine any additional educationally related support services (ERSS), academic intervention services (AIS), or other services that may be appropriate for the child.

#### Procedures for Assessing English Language Learners (ELL Students)

As part of the kindergarten screening, students who appear to be English Language Learners (ELL), formerly known as Limited English Proficiency (LEP) students, are screened by the English as New Language (ENL) teachers. The ENL teacher also screens ELL new entrants to the district. One method that is used to determine the student's predominant language is the Home Language Survey completed at the time of registration into the District. If the student does not speak English, the ENL teacher administers the New York State Identification Test for English Language Learners (NYSITELL) to determine language proficiency. If the student scores at or below the cut-off point on the NYSITELL, the student is determined to be limited in oral proficiency and ENL services are provided.

Students who are referred for a bilingual assessment have usually been in the ENL program for at least two-three years. Traditionally, the referral comes from the ENL teacher who discusses his/her concerns about the student's progress with the building team with regard to the possibility of a disability interfering with the acquisition of academic and/or language skills.

Prior to the referral, general education supports are attempted to determine if the student can make progress through the Response to Intervention (RtI) process.

The Response to Intervention (RtI) supports may include:

- Foundations
- Remedial reading program
- Academic Intervention Services
- Math Lab
- ENL program
- Individual tutoring
- Extra help sessions with the general education teacher
- Informal small group instruction
- Curriculum modifications

If the student's home language is other than English, this is noted on the referral form in order that further evaluations can be completed in the student's dominant language. If the parents' dominant language is not English, they will receive all notifications in their dominant language.

At the CSE meeting, an interpreter can be provided for parents if their dominant language is other than English. When considering if a disability is present, the CSE will consider the following factors:

- The length of time the student has been in the United States;
- The amount of instruction that the student has received in the United States as well as his/her home country;
- The length of time the student has been receiving ENL instruction;
- Attendance in school;
- The student's proficiency in his dominant language as well as English proficiency;
- The types of general education supports that the student has received.

In all cases, the student's educational, cultural and experiential background will be considered by the Committee to determine if the CSE factors are contributing to the student's learning or behavioral problems. In making a determination of eligibility for special education and related services, a student may not be identified as a child with a disability if the determinant factor for such determination is limited English proficiency.

#### Culturally Unbiased/Non-Discriminatory Evaluation for English Language Learners

The CPSE/CSE is responsible for evaluating students to determine the existence of a disability that may require special education services. In order to safeguard educational opportunities for



students whose native language is other than English, the CPSE/CSE must ensure that all tests and assessment procedures are administered so as not to be racially or culturally discriminatory.

The procedures for ensuring appropriate and non-discriminatory evaluations for students who are limited English proficient will be as follows:

- The CSE referral will indicate the student's dominant language, as determined by the Home Language Survey and other assessments;
- The CSE referral includes a section that must be completed on students who are limited English proficient and may also be suspected of having a disability.
- If the student's English proficiency is determined to be insufficient to obtain valid results in English and the home language is not English, the evaluation shall be bilingual.
- If the home language is English but the student is considered limited English proficient, an evaluation will be conducted by a professional familiar with the culture and language of the student.
- If the student is from a culturally and linguistically diverse background and English is the home language and the student is considered to be proficient in English, as determined by an English language assessment, the evaluation may be conducted in English; however, the culture and linguistic background of the student will be taken into consideration.
- If the parent's dominant language is not English, they will receive all notifications in their dominant language.

Upon receipt of a referral that indicates that the home language is not English, due process notices will be mailed to parents in the dominant language. At the CPSE/CSE meeting, an interpreter will be present to explain the results of the evaluations and the proposed recommendations.

The bilingual evaluation will include the following considerations/evaluations:

- The length of time the student has been in the United States;
- The amount of instruction that the student has received in the United States as well as his/her home country;
- The length of time the student has been receiving ENL instruction;
- Attendance in school;
- The student's proficiency in his native dominant language as well as English proficiency;
- The types of general education supports that the student has received.
- A bilingual evaluator will be obtained who is knowledgeable about the student's geographic area of origin as well as its language and culture
- BOCES and other agencies may be used for bilingual assessment
- Test instruments in the appropriate language that are normed on the same or similar population as the country from which the student comes will be sought. If such evaluative tools are not available, the evaluator will state in the report specific concerns regarding the instruments that were used and specific cautions to be observed when evaluating the results.

- If specific sub-tests are not considered appropriate because of cultural disadvantage, the evaluator may prorate the results and explain the reasons for this decision in the report.
- Student work samples may be submitted to the CSE to provide an informal portfolio assessment that may indicate functional levels.
- Non-verbal assessment batteries will be used to supplement more linguistic based measures.
- Age-appropriate adaptive behaviors will also be taken into consideration.
- All areas of suspected disability will be evaluated in the student's dominant language (i.e., speech).
- The bilingual evaluator will conduct a complete bilingual social history.
- The evaluation report will state the language in which the assessment was administered.
- If the tests normally used are not considered valid for the ENL student, other avenues of data collection including criterion-referenced tests may be used and the results will be described in the evaluation report.

The following procedures will be followed by the CSE/CPSE when reviewing bilingual evaluations:

1. A bilingual professional or translator will be present at the CPSE/CSE meeting and the attendance sheet will indicate the name and language of this interpreter.
2. The CPSE/CSE will consider the role of cultural and/or linguistic factors in relation to the student's behavior and/or academic difficulties before determining if special education services are required.
3. In keeping with the doctrine of least restrictive environment, the CPSE/CSE will determine if remedial services and other general education supports can be tried before considering special education services.
4. All notices requiring consent and informing parents/guardians of CPSE/CSE recommendations will be translated into the parent's dominant language.
5. The program or services recommended for the student may consist of a combination of ENL and special education services, as recommended by the CSE.

### Extended School Year (ESY) Services

The Committee on Special Education or the Committee on Preschool Special Education will determine whether a student requires extended school year special education services in order to prevent substantial regression. Substantial regression as defined by regulations 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 Section 200.6(k) of the Commissioner's Regulations, students will be considered for twelve month special services and/or programs to prevent substantial regression if they are:

- Students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention;
- Students with severe multiple disabilities, whose programs consist primarily of rehabilitation and treatment;
- Students who are recommended for home and 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 rehabilitation and treatment;
- Students whose needs are so severe that they can be met only in a seven day residential program; or
- Students receiving other special education services, who, because of their disabilities exhibit the need for a twelve month program provided in a structured learning environment of up to twelve months duration in order to prevent substantial regression.

Both quantitative and qualitative information will be reviewed by the Committee to substantiate the need for providing such services and programs. A student is eligible for a twelve month service or program when the period of review or re-teaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or re-teaching ranges between twenty and forty school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight weeks or more would indicate that substantial regression has occurred.

### Access to Assistive Technology Devices and Services

The District is committed to ensuring that assistive technology devices and/or services are made available to a student with a disability, when appropriate, as part of the student's Individualized Education Program (IEP).

The IEP must describe any specialized equipment and adaptive devices needed for that student to benefit from instruction. IDEIA requires each school district to ensure that assistive technology devices and/or services are made available to a preschool or school-age student with a disability as part of the student's special education, related services or supplementary aids or services as described in the IEP. IDEIA defines assistive technology devices and assistive technology services, as follows:

Assistive technology devices means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. An assistive technology service means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
2. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;
3. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. training or technical assistance for such child, or, where appropriate, the family of such child; and
6. training or technical assistance for professionals (including individuals providing education and rehabilitation services), or other individuals who provide services to, or are otherwise substantially involved in the major life functions of such child.

A student's need for assistive technology is determined through the individual evaluation. The district's CPSE/CSE is responsible for this functional evaluation of the student. The need to conduct an assistive technology component of an evaluation must be considered for students on a case-by-case basis.

#### Exemption from Foreign Language Requirement

Students who entered the ninth grade during the 2001/2002 school year and thereafter, are required to complete one high school credit in a language other than English in order to earn the new Regents diploma. This requirement is established for all schools in the state by Section 100.2(d) of the Regulations of the Commissioner of Education.

Students identified as having disabilities may be exempted from this requirement if their Individualized Education Program (IEP) indicates that such requirement is inappropriate. Only those students whose disabilities specifically and severely impair receptive and/or expressive language skills, or exhibits other behavioral or learning problems that would impact ability to benefit from foreign language instruction may be exempt from the foreign language requirements, as most students would benefit from exposure to a foreign language. The reasons for any exemption will be specified in the IEP. Therefore, at annual review for all students who are completing sixth, seventh, or eighth grade, the CSE will take the following steps:

1. Curriculum will be reviewed to determine whether the language requirement has been completed.

2. If the language requirement has not been completed, attention will be paid to speech and language levels, learning characteristics, and emotional factors, which may be relevant to the ability to benefit from language instruction in the following year.

In determining whether or not exemption is “appropriate”, particular attention will be paid to severity of speech and language impairment. Exemption may be granted if a student is severely speech and language impaired or if other factors justify such exemption. If the CSE concludes that an exemption is warranted, reasons will be provided in a statement accompanying the IEP.

If a student with a disability is assigned to a language class, a copy of the IEP showing necessary testing modifications and classroom modifications will be made available to the language instructor by the student’s special education teacher.

School district and State Education Department policies strongly favor fulfillment of the language requirement by all students prior to completion of ninth grade. Only students whose receptive or expressive language is severely impaired will be exempted unless there are specific factors, which, in combination with language problems, make exemption necessary.

#### Transitional Planning Services for Students with Disabilities

Transition Services are defined in the IDEIA, IDEA and Article 89 as a coordinated set of activities for a student with a disability designed to improve his/her academic and functional achievement to facilitate the student's movement from school to post-school activities, including, but not limited to:

- post-secondary education;
- vocational education;
- integrated employment (including supported employment);
- continuing and adult education;
- adult services; and
- independent living, or community participation.

The coordinated set of activities to facilitate the student’s movement from school to post-school activities must be based on the student's strengths, preferences, and interests and include needed activities in the following areas:

- 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 provision of a functional vocational evaluation (20 U.S.C).(1401)(a)(19).

## Individualized Transition Plans

Transition service planning for secondary students with disabilities is outcome oriented and looks toward adult life. Professionals, students, and parents or other guardians work cooperatively to identify appropriate destination statements and to determine and implement plans for reaching the CSE outcomes. The student's interests and needs are kept foremost in the decision-making process.

For students age fourteen (14) and older, the IEP must demonstrate the use of coordinated activities as the means by which the student can achieve the long-term adult outcomes. Beginning at age fourteen, the focus of activity is on instruction (e.g., courses of study such as participation in advanced placement courses or a vocational educational program). At age fifteen or older, the coordinated set of activities must address instruction, related services, community experiences and the development of employment or other post-school adult living objectives. At all meetings for the purpose of discussing the need for transition services, the student will be invited. In addition, a representative of the agencies likely to provide or pay for transition services will be invited. Other knowledgeable school personnel (e.g., administrators, psychologist, related service provider, general education teacher) may be asked to participate in the process.

The coordinated set of activities is:

**Instruction:** Education instruction that will be provided to the student to achieve the stated outcome(s) (e.g., general and/or special education course instruction, occupational education and advanced placement courses).

**Related Services:** As defined in Section 200.1 of the Regulations of the Commissioner of Education, such rehabilitation counseling services, that will support the student in attaining the stated outcome(s).

**Employment and Other Post-School Adult Living Objectives:** Educational services that will be provided to the student to prepare for employment or other post-school activity. Post-school activities will determine what other skills or supports will be necessary for the student to succeed as independently as possible. Examples include participation in a work experience program, information about colleges in which the student has an interest and travel training.

**Community Experiences:** Community-based experiences that will be offered or community resources utilized as part of the student's school program, whether utilized during school hours or after school hours to achieve the stated outcome(s).

**Activities of Daily Living Skills (ADL) [if appropriate]:** ADL skills necessary to be worked on to achieve the stated outcome(s) (e.g., dressing, hygiene, self-care skills, and self-medication).

**Functional Vocational Assessment (if appropriate):** If the vocation assessment has not provided enough information to make a vocational program decision, additional assessment activities can be performed to obtain more information about the student's needs, preferences and interests.

## Vocational Assessment Process

### Goal of the Vocational Assessment Process

The goal of the vocational assessment process is the successful transition of students to post-secondary education or employment. The process serves to help students, parents, and staff focus on long term planning leading to realistic outcomes. The ultimate goal is for the school, the family and community agencies to work cooperatively to identify appropriate destination statements and to determine and implement plans for reaching the CSE outcome(s).

Vocational assessment is an ongoing process involving the systematic collection of information about a student's vocational aptitudes, abilities, expressed interest and occupational awareness. Based on the age, abilities, interests and needs of each student, an appropriate vocational assessment may include the review of existing school information, the completion of informal interviews, parent questionnaires, one or more formal vocational evaluations or job and student performance analysis made in real and/or simulated work settings.

Though the amount and type of information collected on each student may vary, it must be sufficient for the Committee on Special Education to make and substantiate appropriate occupational education program decisions.

### Level of Vocational Assessment

Vocational assessment is conducted for special education students starting at age twelve and those referred to special education for the first time that are age twelve or older.

Level I vocational assessments include a structured collection of information and analysis of existing information about the student. This assessment involves the participation of the student, the student's parent(s) or guardian(s), a special education teacher, and the student's guidance counselor. Other appropriate professionals may also participate in this assessment.

Level II vocational assessments are more focused and involve the administration of standardized tests, which look in further detail at interests, vocational skills, and specific aptitudes and abilities. This assessment builds upon information that was recorded in the Level I assessment. Specialized vocational evaluation instruments, such as vocational interest inventory vocational aptitude battery and selected work samples, may be introduced at this level.

Level III vocational assessments are situational assessments conducted while a student is actually engaged in work related/vocational activities. This may require resources such as those available in a vocational rehabilitation facility, an occupational assessment center or in an actual work setting. This type of assessment is usually reserved for more multi-disabled students whose disabilities are very severe.

In all cases, the assessments keep the student's unique interests, needs and desires in the forefront during the evaluation and decision-making process.

### School Staff Responsibilities

#### Guidance Counselors

Guidance counselors will be involved with the transition process at each grade level beginning in grade seven. Counselors will be responsible for meeting with students and parents to review programs and schedules. They will assist the CSE in determining the appropriate course of study, number of credits and sequences, and vocational programs, if appropriate, so that students will be eligible to earn a high school diploma. Counselors should attend CSE meetings during the year as well as annual reviews.

#### Special Education Teachers

Special education teachers will complete the Teacher Assessment Form prior to each annual review. Special education teachers will assist each student in helping them understand the IEP process and their strengths and weaknesses. The teachers will also complete the Transition Schedule for each student which details the activities that are completed at each grade level, beginning in the seventh grade.

#### Transitional Multi-disciplinary Team

The transitional multi-disciplinary team consists of the guidance counselor, special education teacher, psychologist, social worker, speech therapist, and any other staff member who has information about the student as it relates to transitional planning.

The team will discuss data collection, evaluations (if conducted), and current programs and services for each student. The team will determine transitional needs and if the student requires any additional assistance from such agencies as Adult Career Continuing Education Services – Vocational Rehabilitation (ACCES-VR).



## Aging Out Guidelines for Students with Severe Disabilities

Students with disabilities are no longer eligible for a free appropriate public education once they reach the age of 21 or attain a high school diploma. The Elmsford Union Free School District has a mandated responsibility to implement an aging-out process to transition students with severe disabilities from public education to adult services. Aging-out procedures are in addition to the transition planning services previously discussed in this plan.

Aging out is specifically designed to meet the needs of three groups of students with severe disabilities:

- Chapter 544 students: Students attending residential out-of-state schools that have attained or will attain the age of 18 prior to June 30 of the current school year.
- Chapter 570 students: Students attending residential in-state schools that have attained or will attain the age of 18 by June 30 of the current school year.
- Chapter 462 students: Students attending non-residential, in-state programs 100% of the time, who have intensive management needs and who are likely to require adult services. The process for eligible students begins at the first annual review after the student reaches the age of 18.

Although the procedures for referral of students in the CSE three groups are not identical, there are certain common overriding steps:

- identification of students likely to need adult service based on criteria noted above
- notification to parents or students
- obtaining consent to release information
- referral to agency(ies)

## Opportunities to Earn a High School Diploma

It is the policy of the Elmsford Union Free School District to encourage students with disabilities to pursue a high school diploma (Appendix C). Access must be provided to required courses, electives, and tests as specified in Part 100 of the Regulations of the Commissioner. The Committee must consider the high school credentials the student will seek to attain: a Regent's or local high school diploma or Skills and Achievement Commencement Credential (SACC). To ensure that students with disabilities are encouraged and assisted to achieve the credits and the skill levels necessary for attaining a diploma, the district adopts the following procedures:

1. The Committee on Special Education (CSE) will annually review the special educational needs of each student with a disability. At each annual review after the student has entered the 7<sup>th</sup> grade, the CSE will make an assessment as to whether or not the student's capabilities indicate probable success in a course of study leading to a diploma, or whether his/her needs could be better met in an individualized education program designed to culminate in a SACC. Where appropriate, the student will participate in this decision-making process.
2. The decision will be reviewed annually. The CSE will consider the following factors:
  - a. Current levels of achievement;
  - b. Learning rate;
  - c. Preference of student and family.
3. The CSE will consider if the student requires testing modifications to participate in state or district-wide assessments. The CSE modifications will be clearly stated on the student's IEP.
4. The district will offer appropriate remedial instruction for all students.
5. The CSE will identify and recommend support services and supplementary instruction to assist students to benefit from credit courses.
6. If the student's special educational needs require instruction in small classes from certified special education teachers, the IEP shall so indicate and placement will be made in or outside the district in special education classes. In any such case, instruction in subjects granting credit towards graduation and a Regent's or local high school diploma will be provided in accordance with curriculum objectives and required levels of achievement determined by the special education teacher in consultation with a teacher certified in the subject being taught.

A record of the objectives and criteria for mastery will be subject to the approval by the building principal and maintained in the special education office. Evaluations of student work will be in accordance with the individual educational needs of the student.

Prior to receipt of a SACC does not preclude subsequent granting of a regular diploma if passing of appropriate assessments and necessary credits are achieved before the end of the school year in which a student reaches his/her twenty-first birthday. In all cases, in which a SACC is issued, parents will receive written notice that a student is entitled to receive a free appropriate public education until the end of the school year in which he/she reaches his/her twenty-first birthday or obtains a high school diploma.

## Guidelines for Issuance of the Skills and Achievement Credential

The Board of Education and district staff shall comply with all federal and state requirements concerning the education of students with disabilities. The district subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. In accordance with this, it is expected that students with disabilities will be guided towards a course of study which will lead to the achievement of a high school diploma. It is recognized, however, that the achievement of this standard may be precluded for some students due to the nature or severity of their disability. The awarding of a SACC is authorized for such students under the following conditions:

Beginning with the 2013-2014 school year and thereafter, the Elmsford Union Free School District may issue a Skills and Achievement Commencement Credential to a student who has taken the state assessment for students with severe disabilities (NYSAA), as defined in section 100.1(t)(2)(iv) of the Commissioner's Regulations, in accordance with the following provisions:

- a. Prior to awarding the Skills and Achievement Commencement Credential, the governing body of the Elmsford Union Free School District shall ensure that:
  1. The student has been recommended by the Committee on Special Education to take the alternate assessment in lieu of a required state assessment;
  2. Such student meets the definition of a student with a severe disability as defined in section 100.1(t)(2)(iv) of the Commissioner's Regulations;
  3. The student has been afforded appropriate opportunities to participate in community experiences and development of employment and other instructional activities to prepare the student for post-secondary living, learning and employment.
- b. The credential may be issued at any time after such student has attended school for at least 12 years, excluding kindergarten, or has received substantially equivalent education elsewhere, or at the end of the school year in which a student attains the age of 21.
- c. The credential shall be similar in form to the diploma issued by the Elmsford Union Free School District, except there shall appear on such credential a clear annotation to indicate that the credential is based on achievement of alternate academic achievement standards.
- d. The credential shall be issued together with a summary of the student's academic achievement and functional performance, as required pursuant to section 200.4(c)(4) of the Commissioner's Regulations, that includes documentation of:
  1. The student's level of achievement and independence for each of the career development and occupational studies learning standards set forth in section 100.1(t)(1)(vii)(a), (b) and (c) of the Commissioner's Regulations including, but not limited to: career development; integrated learning; universal foundation skills that include basic skills in reading, writing, listening, speaking, math and functional math; thinking skills; personal qualities; interpersonal skills; use of technology; managing information and resources;

2. The student's academic skills, as measured by the State assessment for students with severe disabilities; and
  3. The student's strengths and interests and, as appropriate, other student achievements and accomplishments.
- e. If the student receiving a credential is less than 21 years of age, such credential shall be accompanied by a written statement of assurance that the student named as its recipient shall continue to be eligible to attend the public schools of the school district in which the student resides without the payment of tuition until the student has earned a regular high school diploma or until the end of the school year in which such student turns 21, whichever shall occur first.

## SECTION 5

### LANGUAGE PROFICIENCY TEAM

In the fall of 2014, the Board of Regents adopted the New York State Education Department's proposed amendments to Part 154 of the Regulations of the Commissioner of Education. The Commissioner's Regulation Part 154 (CR Part 154) establishes the legal requirements for the Education of English Language Learners (ELLs) in New York State (NYS).

School districts are required to implement an identification process to determine if a student is an English Language Learner when a student initially enrolls or reenters a New York State (NYS) public school. The identification process must commence no later than the date of the student's initial enrollment or reentry in a NYS district. The process must be completed and a determination made within 10 school days of initial enrollment or reentry into a NYS public school after two years.

#### Screening – Home Language Questionnaire (HLQ)

At the time of registration in the school, the HLQ is completed by the parent/guardian. The HLQ is currently translated into the following languages: Spanish, Chinese, Haitian Creole, Russian, Polish, Korean, Bengali, Arabic, Urdu, Vietnamese, Amharic, and Portuguese.

- If the home language is English or the student's primary language is English, then the student is not an ELL and screening for ELL Identification stops. The HLQ is placed in the student's cumulative record.
- If the home language is other than English or the student's primary language is other than English, an individual interview must take place. The HLQ is placed in the student's cumulative record.

#### Screening – Individual Interview

This interview must be conducted in English and the student's home language by qualified personnel. The interview and all future oral and written communications must be conducted with a qualified translator/interpreter provided by a school/district. The interview should include a review of the student's abilities or work samples in:

- reading and writing in English
- reading and writing in the home language
- math

These items are collected or generated during the interview. These can be writing samples or exercises completed at the time of the interview.

For students reentering the NYS public school system, the interview must include a review of prior experience in the home language and/or English instruction to determine if the student shall be administered the New York State Identification Test for English Language Learners (NYSITELL) and to determine the student's level of literacy in their home language and grade level in math. All documents must be placed and should remain in the student's cumulative record. Some of this information may be used to determine if a student is a potential Student with Inconsistent/Interrupted Education (SIFE).

- If the home language is English or the student's primary language is English, then the student is not an ELL and screening for ELL Identification stops.
- If the student has an IEP, steps to address this are explained further down.
- If the home language is other than English or the student's primary language is other than English, then the student may be an ELL. If the student does not have an IEP, refer to the section labelled Initial ELL Identification Assessment – NYSITELL.

### Qualified personnel

A New York State certified bilingual or English to Speakers of Other Languages (ESOL) teacher who is fluent in the home language of the student and parent/guardian or uses a qualified interpreter/translator of the language or mode of communication the student and parent/guardian best understands or a NYS certified teacher who has been trained in cultural responsiveness, language development, and the needs of ELLs and who is proficient in the home language of the student or parent/guardian or uses a qualified interpreter/translator of the language or mode of communication the student or parent/guardian best understands.

### Screening of Students with an IEP

This part of the identification process is used for a student with an IEP who comes from other states in the United States or Puerto Rico, with both an identified disability and an IEP. It does not apply to a new entrant or reentering student who:

1. Is suspected of having a disability
2. Was previously identified as an ELL in NYS within the last two years
3. Comes from another country and/or with documentation from another country showing that the student has a disability, but does not have an IEP from the United States.

The Language Proficiency Team will meet to determine the possible testing accommodations of a student with an already identified disability.

Language Proficiency Team (LPT) means a committee that makes a recommendation regarding the initial assessment of ELL status for a student with a disability identified pursuant to the Individuals with Disabilities Education Act (IDEA). The LPT must minimally be comprised of:

- a school/district administrator
- a teacher or related service provider with a bilingual extension and/or a teacher of English to Speakers of Other Languages,
- the Director of Special Education or individual in a comparable title (or his or her designee)
- the student's parent/guardian.

If the Language Proficiency Team (LPT) determines that the student with an IEP may have second language acquisition needs, the LPT will determine whether the student shall take the NYSITELL. A student with an IEP or a 504 Accommodation Plan may take the NYSITELL without testing accommodations or with testing accommodations, consistent with the student's IEP or 504 Accommodation Plan.

If the LPT recommends to the school principal that the student with an IEP does not have second language acquisition needs, the principal notifies the superintendent and the parents/guardians. The superintendent then has ten school days to agree or disagree. The parents/guardians are notified within five school days of the final determination that the student will not take the NYSITELL, thus is not designated as an ELL, and screening for ELL Identification stops.

### Initial ELL Identification Assessment

Qualified personnel will administer the statewide English language proficiency identification assessment, the New York State Identification Test for English Language Learners (NYSITELL). The NYSITELL is administered only once within 10 school days of the student's initial enrollment in a NYS school.

The purpose of the NYSITELL is to assess the English language proficiency of new entrants whose home language is a language other than English, as indicated on their HLQ and individual interview. It is used to determine if the student is in need of bilingual and/or English as a New Language (ENL) services. Based on NYSITELL results, students will be categorized into one of five levels (Entering, Emerging, Transitioning, Expanding, or Commanding), which will determine the number of minutes of services each student will receive. NYSITELL results will also help inform teachers for instructional purposes by determining a student's relative strengths

in each modality (Listening, Reading, Writing, and Speaking).

For students with disabilities, testing accommodations must be provided in the administration of the NYSITELL based on the student's IEP or 504 Plan and consistent with State policy for the administration of this State assessment.

The identification process must begin no later than the date of the student's initial enrollment or reentry in a NYS school district. The NYSITELL may not be administered before July 15 for students in grades 1-12 enrolling for the start of classes in September. For students enrolling in kindergarten for the start of classes in September, the NYSITELL may not be administered prior to June 1.

Original copies of the NYSITELL score sheets and all results must be placed and should remain in each student's cumulative record whether he/she is determined to be an ELL or not.

If the student's language proficiency level is one of the following, then the student is an ELL and the parent/guardian will receive an Entitlement Letter:

- **Entering:** A student at this English language proficiency level has great dependence on supports and structures to advance his or her academic language skills. As measured by the NYSITELL or the NYSESLAT, a student at this level has yet to meet the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts within this grade level.
- **Emerging:** A student at this English language proficiency level has some dependence on supports and structures to advance his or her academic language skills. As measured by the NYSITELL or the NYSESLAT, a student at this level has yet to meet the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts within this grade level.
- **Transitioning:** A student at this English language proficiency level shows some independence in advancing his or her academic language skills. As measured by the NYSITELL or the NYSESLAT, a student at this level has yet to meet the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts within this grade level.
- **Expanding:** A student at this English language proficiency level shows great independence in advancing his or her academic language skills. As measured by the NYSITELL or the NYSESLAT, a student at this level is approaching the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts within this grade level.



If the student's language proficiency is the following, then the student is not an ELL and the parent/guardian will receive a Non-Entitlement Letter:

- Commanding: As measured by the NYSITELL a student at this level has met the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts within his or her grade level.

A CSE must also specify if the student will participate in an alternate assessment on a particular NYS assessment of student achievement. If so, the IEP must provide a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student. However, while CR Part 154 regulations state that the CSE can recommend an alternate assessment of English language proficiency, this option currently is not available in NYS as the State does not have an approved alternate NYSITELL, NYSESLAT, or other ELP assessment.

### Re-Entry Identification

Re-entry identification shall mean the process followed pursuant to CR section 154-2.3 to determine if a student is an ELL who is re-enrolling in a NYS public school after not having been enrolled in a NYS public school at any time during the preceding immediate two continuously enrolled school years.

If a student is enrolling for the first time in a NYS school district, the district will follow the Identification procedure, pursuant to CR Section 154-2.3(a) regardless of a student's prior schooling.

If a current ELL leaves NYS and moves to another country, then returns to a NYS public school within two (2) years, the student will continue to be designated as an ELL and the district should place the student programmatically based on where the student was when he/she last attended school in NYS.

If a current ELL leaves NYS and attends school in another US State or Puerto Rico, then returns to a NYS public school within two (2) years, the student will continue to be designated as an ELL and the district should place the student programmatically based on where the student was when he/she last attended school in NYS.

If a current ELL leaves NYS and moves to another country, then returns to a NYS public school after two (2) years, the district will follow the steps outlined in the initial identification process.

If a current ELL leaves NYS and attends school in another US State, then returns to a NYS public school after two (2) years, the district will follow the steps outlined in the initial identification process.

If an ELL scores proficient on the NYSESLAT, and moves to another country, then returns to a NYS public school after two (2) years, the district will follow the initial identification process, which may include re-identifying the student as an ELL.

#### Determination of ELL Student with Interrupted/Inconsistent Formal Education (SIFE)

Students with Inconsistent/Interrupted Formal Education (SIFE) are ELLs who have attended schools in the U.S. for less than 12 months and who, upon initial enrollment in schools, are two or more years below grade level in literacy in their home language and/or two or more years below grade level in math due to inconsistent or interrupted schooling prior to arrival in the US.

Qualified personnel must administer the SIFE Oral questionnaire and diagnostic tools to determine SIFE status.

The SIFE Oral Interview Questionnaire must be administered, followed by the Diagnostic Tool for SIFEs to ascertain their home language literacy level. Any documents pertaining to SIFE determination must be maintained in the student's cumulative record.

#### Parent Notification/Entitlement of ELL Identification Determination

Within five school days of a student being identified as an ELL, the parent/guardian is to receive written notice in their indicated preferred language, including the following:

- ELL's English language proficiency level
- Parent/Guardian's right to seek a review of ELL Identification/Entitlement Determination
- Information regarding the Parent Orientation session

#### Parent Orientation for New English Language Learners

Prior to an ELL's placement in a Bilingual Education (BE) or English as a New Language (ENL) program, districts are required to provide the parent/guardian of new entrants with a high quality orientation session. The session must include information regarding:

- Program goals and requirements for BE and ENL programs
- New York State Common Core Learning Standards (CCLS)
- State/Local Assessments
- School expectations for ELLs

All agendas and sign-in sheets must be maintained in a central location in the district/school's files.

### ELL Program Placement

Within 10 school days of enrollment, the student must be placed in the appropriate ELL program. In the event that a parent/guardian does not return the signed notification form within 10 school days, the ELL is placed in an ENL program.

### Review of all ELL Identification Determination

The Review of ELL Identification Determination does not allow ELLs to opt out of service. Upon receiving a written request from a parent/guardian, teacher, or student age 18 years or older within 45 school days of a student's initial ELL designation, a district has 10 school days to initiate a Review of ELL Identification Determination. The review must be concluded within 10 school days (20 school days if the CSE is consulted). All documents related to the initial or reentry process, including a review of the student's work in English and the home language, must be reviewed by the school principal and qualified personnel.

The school principal and qualified personnel must review the results of a school-based assessment and consult with the CSE if the student has a disability that may impact the student's ability to speak, read, write, or listen in English. The parent/guardian must be consulted, and all documents must be retained in the student's cumulative record.

Before final determination, parents are to be informed in writing and consent to the results of the Review of ELL Identification Determination.

Within six months to one school year of a review, the school principal must review all decisions to remove ELL status. This determination must be in writing. Any reversal must be made in consultation with the superintendent and parent/guardian. If a reversal is determined, the superintendent must provide written notification of the reversal to the Commissioner, the school principal, the parent/guardian, and the student, if the student is age 18 or older. Any change in ELL designation must be reflected in the student's cumulative record.

## ELL Exit Criteria

ELLs can exit ELL status in the following ways:

- Grades K-12: Scoring at the Commanding/Proficient level on the NYSESLAT.
- Grades 3-8: Scoring at the Expanding/Advanced level on the NYSESLAT and 3 or above on the NYS ELA assessment within the same school year.
- Grades 9-12: Scoring at the Expanding/Advanced level on the NYSESLAT and 65 or above on the Regents Exam in English within the same school year.

In accordance with section 200.4(d), the CSE must annually determine if a student with a disability needs individual testing accommodations to participate in a State assessment of student achievement.

The NYSESLAT is a NYS assessment of students' English language proficiency achievement. The NYSESLAT must be administered in consideration of any testing accommodation recommended in the student's IEP that is allowable by State policy. In accordance with section 154-3.4, a student with a disability participates in the NYSESLAT with or without the use of testing accommodations, as specified in the IEP and in accordance with State policy for the administration of the assessment. Students with 504 plans that include recommendations for testing accommodations must also be provided those accommodations on the NYSESLAT that are consistent with State policy for the administration of the assessment.

Once an ELL has exited ELL status, he/she is entitled to two years of Former ELL services and is now designated a Former ELL.

A CSE must also specify if the student will participate in an alternate assessment on a particular NYS assessment of student achievement. If so, the IEP must provide a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student. However, while CR Part 154 regulations state that the CSE can recommend an alternate assessment of English language proficiency, this option currently is not available in NYS as the State does not have an approved alternate NYSITELL, NYSESLAT, or other ELP assessment.

## Section 6

### Procedural Safeguards

#### Due Process

A mandatory Procedural Safeguards Notice has been provided to school districts by the New York State Education Department.

The Procedural Safeguards Notice must be provided to parents upon request and upon:

- Initial referral of the child for evaluation;
- Request for an impartial due process hearing or mediation;
- A decision to suspend or move a child for discipline reasons that would result in a disciplinary change of placement;
- The first time in a school year when the school district receives a copy of a state complaint.

#### Informed Consent (CSE and CPSE)

Consent means:

- The parent has been fully informed in his/her dominant 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;
- The parents 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**
- The parent understands that the consent is voluntary on their part and they may withdraw their consent at any time. The withdrawal of consent does not negate (undo) an action that has occurred after the parent gave their consent and before they withdrew it.

#### Written Parental Consent is Required Prior to:

Initial Evaluation: Upon receipt of a referral to the CPSE/CSE of a student who is suspected of having a disability, the parental consent for evaluation is requested. The parent is contacted by a representative of the CPSE/CSE regarding the referral. The reason or the referral and the evaluation process are explained. The parent is also provided with a copy of due process rights. If the parent does not consent, the parent is invited to an informal conference to discuss the evaluation process. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent. If the parent of a preschool child does provide consent for initial evaluation, no further action will be taken by the CPSE until such consent is obtained. If the parent of a school-age child does not provide consent for an initial evaluation within 30 days of the dated receipt of the referral, the chairperson will document attempts to obtain parental consent and will request that the Board of Education initiate an impartial hearing.

### Initial Provision of Special Education Services

If the CPSE/CSE determines the student has a disability and recommends special education services, parental consent to initial placement is requested. The parent is provided with a copy of the due process rights. If a parent refuses to give written consent, the District may not deny the parent or child any service, benefit, or activity of the school district, except for the recommended special education service. Translations are provided as necessary. Parents are given the opportunity for further discussion with the Chairperson of the CSE or school staff, if needed. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent for placement. If the parent of a preschool child does not provide consent for the initial provision of special education services, no further action will be taken by the CPSE until such consent is obtained. If the parent of a school-aged student does grant consent for an initial provision of special education services within 30 days of a notice of recommendation, the Board of Education will initiate an impartial hearing.

### Initial Provision of a Twelve Month Program or Service

The procedures detailed above apply.

### Re-evaluation

Parental consent will be requested prior to conducting a re-evaluation of the student with a disability; however, the district may proceed with the re-evaluation if the parent/guardian does not respond and reasonable measures have been taken and documented to obtain such consent.

Reasonable measures are interpreted as:

- A written notice is sent to the parent requesting consent for the reevaluation;
- At least one additional attempt is made to notify the parents; this may mean an additional written notice or a telephone call.

### Request for Records/Other Communications with Non-District Personnel

Parent consent is requested for the following:

- Release of CPSE/CSE records to another agency/individual;
- Request for copies of reports/evaluations from another agency/individual;

Parental consent is not required before reviewing existing data as part of an evaluation or a re-evaluation or administering a test or other evaluation that is administered to all students unless,

before the administration of that test or evaluation, consent is required of parents of all students. Parental consent is required for a functional behavioral assessment.

### Independent Evaluations

At the time of CSE initial or re-evaluation, the Office of Special Education will inform parents regarding their right to an independent evaluation by providing them with a copy of the Due Process Notice. When they disagree with the evaluation conducted by the CSE, the parent may request an independent evaluation at district expense. The names, addresses and telephone numbers of appropriate public and private agencies and other professional resources where independent evaluations may be obtained are available upon request. The school district has the right to initiate an impartial hearing to demonstrate that its evaluation is appropriate or that the evaluation obtained by the parent does not meet school district criteria. If a hearing officer determines that the district's evaluation was appropriate or the evaluation obtained by the parent did not meet school district criteria, the parent is not entitled to reimbursement at district expense. Any independent evaluation whether paid for by the parent or the school district will be reviewed by the CSE and taken into consideration in its final placement determination.

If parents intend to seek funding for the cost of the evaluation they must adhere to following criteria:

- The parent must request a copy of the board policy prior to seeking an evaluation and reimbursement;
- The qualifications of the evaluator and location of the evaluation shall be the same as the criteria which the district uses when it initiates an evaluation. This includes, but is not limited to the following:
  - Psychologists must be licensed by the State of New York as clinical psychologists or certified as school psychologists. If certified as a school psychologist, the evaluator must conduct the evaluation in a school setting;
  - Other evaluators should be appropriately certified in the area of their specialty by the State Education Department;
- The evaluation will take place within a fifty-mile radius of the District;
- The tests performed must be norm references for individual evaluation appropriate for the age and educational level of the student, and measure the same cognitive, motor and affective skills as the district uses;

Independent Educational Evaluations Regulation  
Board Policy Regulation 4321.4

Parents of disabled children have the right under federal and state regulations to obtain an independent evaluation at public expense under certain conditions.

Independent Educational Evaluation

An independent educational evaluation means an evaluation conducted by a qualified examiner(s), as defined in 34 CFR 300.12 who are not employed by the school district responsible for the education of the disabled child or child who is thought to be educationally disabled.

If the parent disagrees with the evaluation conducted by the school district, the parent has a right to obtain an independent educational evaluation at public expense. The district may request the parent to specify the area(s) of disagreement with the district's evaluation. The school district may initiate an impartial hearing to show that its evaluation is appropriate, and if the hearing officer determines that the school's evaluation is appropriate, the parent would not have the right to a publicly funded independent evaluation or the right to reimbursement for an independent educational evaluation they may have already obtained.

Public Expense

The district has established reimbursement rates for independent evaluators based on the reasonable and customary rates charged by providers within close geographical proximity to the district, as defined below. The school district will not pay more than \$1500 for an independent educational evaluation that meets the requirements under Commissioner Regulations which may require an individual psychological evaluation, a physical examination, a social history, and other suitable examinations and evaluations as required by a student's IEP to ascertain the physical, mental, and emotional factors which contribute to a suspected educational disability.

Geographical Range

The school district will not consider at public expense, independent evaluators outside the counties of Rockland, Putnam, or Westchester, absent exceptional circumstances. Requests for exemptions to this policy should be forwarded in writing the Chairperson of the Committee on Special Education.

District List of Evaluators

The district has established a comprehensive list of qualified professionals in private practice or employees of other public agencies to whom patients may go to secure an independent evaluation. This list of independent evaluators which includes professionals in all areas of a child's suspected disability can be obtained from the special education department. Any



evaluator used must possess a current license or certification from the New York State Education Department in the area of evaluation.

### Responsibilities

When an independent educational evaluation is requested and approved by the school district, and an independent evaluator is selected by the parent from the approved list, it then becomes the responsibility of that professional to contact the school to arrange for payment, dates of classroom visitation, and discussion with school staff.

## SURROGATE PARENTS

Surrogate parent means a person appointed to act in place of parents or guardians when a student's parents or guardians are not known, or when after reasonable efforts, the Board of Education cannot discover the whereabouts of a parent, or the student is a ward of the State. The Board of Education shall select a surrogate parent from a list of individuals who are eligible and willing to serve as surrogate parents.

### Qualifications

Persons selected as surrogate parents cannot be officers, employees or agents of the school district or the State Education Department or other agency involved in the education or care of the student. To the extent possible, an effort is made to appoint surrogate parents who:

1. Have no other interest which could conflict with their primary allegiance to the student they would represent;
2. Are committed to acquaint themselves personally and thoroughly with the student and the student's educational needs;
3. Are of the same racial, cultural and linguistic background as the student they seek to represent; and
4. Are generally familiar with the educational options available to children with disabilities.

### Procedures for Assigning Surrogates

Assignment of a surrogate parent to a particular student shall be made in accordance with the following procedures:

1. Any person whose work involves education or treatment of students, who knows of a student who may need special education services, and who knows that the parents or guardians are not known or are unavailable, or that the student is a ward of the State, may file a request for assignment of a surrogate parent with the Committee on Special Education.
2. The Committee on Special Education shall send notice of the possible need for a surrogate parent to the adult in charge of the student's place of residence and to the parents or guardians at their last known address.
3. The Committee on Special Education shall determine whether the parents or guardians are unknown or unavailable, or whether the student is a ward of the State. This determination shall be completed within a reasonable time following the receipt of the original request for a surrogate parent. If the Committee on Special Education finds that there is a need for a surrogate parent, such assignment shall be made by the Board of Education within ten (10) business days of the date of determination by the Committee.
4. Once assigned, the surrogate parent shall represent the student for as long as a surrogate parent is required.
5. The foster parent of the student, who otherwise meets the qualification, may be appointed as the surrogate parent of the student without being approved by the Board of Education.

## Special Education Mediation

Special Education mediation is a process in which the parents of a student with a disability and representative of the school district meet with an independent person, a mediator. By asking questions and discussing all information with both parties the mediator helps the parents and the school district representative to reach a more complete understanding of each other's concerns and to reach an agreement about the special education program and services that the student will receive. Mediation can only be initiated upon a written request of a parent or guardian. Mediation is voluntary and may not be used to deny or delay a parent's rights to an impartial hearing. The mediators are qualified, impartial individuals who have been trained in effective mediation techniques. A mediator may not have a personal or professional interest which would conflict with his/her objectivity in the mediation process and may not be an employee of a school district or program serving students with disabilities. Mediation will be scheduled in a timely manner and held in a location convenient to both parties. Mediation occurs at no cost to either the parent or the school district.

If a parent disagrees with the decision of the Committee regarding their student's program or services, they have the option to participate in mediation. Choosing to participate in mediation does not limit other alternatives, such as requesting a meeting with the Committee or requesting an impartial hearing.

Unlike an impartial hearing, at the end of which the impartial hearing officer makes a decision about the kinds of special education programs and services the student will receive, the mediator does not make a decision. At the end of the mediation session, whatever the parents and the school district representative agree should be done is written down. Agreement may be reached on any or all of the concerns or issues, which were discussed during the mediation session. Any remaining issues can be discussed further with the CSE or can be reviewed by an impartial hearing officer. Discussions during the mediation session are confidential and may not be used as evidence in subsequent hearings or proceedings.

Special education mediation will be conducted by the Community Dispute Resolution Center (CDRC) in Westchester County. Each center is staffed by a number of highly qualified mediators who are not employed by the school district and who are not selected to be mediators by the school district.

## Appointment of Impartial Hearing Officers

The Board of Education annually establishes and maintains a list of names and qualifications of Impartial Hearing Officers available for service in the school district from which the district shall choose an impartial hearing officer.

A certified impartial hearing officer shall:

- Beginning September 1, 2001, be a New York State attorney in good standing with a minimum of two years' practice and/or experience in the areas of education, special education, disability rights or civil rights; or be an independent and not an officer, employee or agent of the school district or of the board of cooperative educational services (BOCES) of which the school district is a component or an employee of the State Education Department;
- Continue to remain qualified as an IHO if the individual was certified as an IHO prior to September, 2001;
- Not have been employed by a school district, school or program serving students with disabilities placed there by a school district CSE or an officer, employee or agent of a school district for two years following the termination of such employment;
- Have access to the support and equipment necessary to perform the duties of an IHO; and
- Successfully complete a State Education Department training program.

## Procedures

The selection of an impartial hearing officer must be made from a list of all hearing officers who are certified, pursuant to the Regulations of the Commissioner 200.1(X) and available to serve in the school district.

The list must be established and maintained in alphabetical order with new appointees being inserted into the alphabetical order of the list.

Selection must be made on a rotational basis, beginning with the first name after the hearing officer who last served. If no hearing officer on the list has served, selection must be made beginning with the first name on the list.

If a hearing officer declines appointment or if within 24 hours the Impartial Hearing Officer fails to respond, or is unreachable after reasonable efforts by the school district, each successive impartial hearing officer whose name next appears on the list shall be offered appointment, until such appointment is accepted. The district clerk attempts will be documented.

For further information concerning the impartial hearing process, refer to the "Notice of Due Process Rights".

## Guardian Ad Litem

In the event the impartial hearing officer determines that the interests of the parent are opposed to or inconsistent with those of the student, or that for any other reason the interests of the student would best be protected by appointment of a guardian ad litem, the impartial hearing officer shall appoint a guardian ad litem, to protect the interests of the student unless a surrogate parent has previously been assigned. The impartial hearing officer shall ensure that the procedural due process rights afforded to the student's parent are preserved throughout the hearing whenever a guardian ad litem is appointed.

A guardian ad litem is defined as a person who is familiar with the provision of the Part 200 regulations and is appointed by the District or may be a pro bono attorney appointed to represent the interests of the student during the proceedings of an impartial hearing, and, where appropriate, to join in an appeal to the State Review Officer initiated by the parent or the Board of Education. A guardian ad litem shall have the right to fully participate in the impartial hearing to the extent indicated in the Regulations.

## SECTION 7

### Records Access and Confidentiality

#### Special Education Records: Access and Confidentiality

##### Notice of Rights Concerning Student Records

Following is an explanation of the rights of parents/guardians concerning school records relating to their student pursuant to the Federal “Family Educational Rights and Privacy Act of 1974” (FERPA).

- Parents of a student under 18, or a student 18 or older, have a right to inspect and review any and all official records, files and data directly related to their student, including all material that is incorporated into each student’s cumulative record folder, and intended for school use or to be available to parties outside the school or school system and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious recurrent behavior patterns.
- A parent of a student under 18 years of age or a student 18 years of age or older shall make a request for access to a student’s (their own) school records, in writing, to the elementary principal of the building to which such student is assigned or the guidance counselor in the secondary school. Upon receipt of such request, arrangements shall be made to provide access to such records within a reasonable period of time, but in no case, more than forty-five (45) days after the request has been received.
- Such parents and students are also entitled to an opportunity for a hearing to challenge the content of such records, to ensure that they are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein. Any questions concerning the procedure to be followed in requesting a hearing should be directed to the Director of Pupil Personnel Services.
- Student records and any material contained therein which is personally identifiable, are confidential and may not be released or made available to persons other than parents or students without the written consent of such parents or student. There are a number of exceptions to this rule, such as other school employees and officials and certain State and Federal officials who have a legitimate educational need for access to such records in the course of their employment.
- The District shall maintain directory information regarding its students. Directory information consists of personal information about individual students and includes the student’s name, address, telephone listing, date and place of birth, major field of study,

dates of attendance, degrees and awards received and previous educational institutions attended. Directory information shall be disclosed for limited purposes and to a limited number of district-related groups, committees, associations and organizations such as the PTSA.

- At the beginning of each school year this policy remains in effect, the District shall notify parents, guardians, and students 18 years old and older (eligible students), either by direct mail or by other district-wide publication, or both, of those categories of information that constitute directory information. Thereafter, parents, guardians or eligible students have a reasonable period of time in which to inform the District that any or all of the information designated as directory information may not be released without the individual's consent. Any objection to such disclosure of directory information, and any request to be excluded from the list of directory information to be disclosed, shall be submitted in writing to the Superintendent of Schools, no later than three weeks after the mailing of notice to parents, guardians or eligible students, or notice in a district-wide publication.

### Student Record Regulations

#### Definitions

Terms which are defined in Federal or State law which are used in this statement are explained below:

Student: any person who has received educational services or instruction within the District. This includes students who receive preschool services from the Elmsford Union Free School District.

Eligible Student: a student or former student who has reached the age of eighteen or who is attending an institution of post-secondary education, unless the parent has legal guardianship of the student. An eligible student (not his/her parent) has full access to his/her own records and is the only person who is authorized to consent to the release of such records. Such student may expressly authorize a parent or guardian to exercise access and release rights on his/her behalf, but such authorization must be in writing, and must be signed by the student in the presence of a third party (notary).

Parent: either parent, unless his/her right to access to school records has been specifically revoked by court order or a legally binding document, and the District has received notice of such court order or document. The term parent also includes a guardian who has been appointed by a court or who had demonstrated, to the satisfaction of the principal, that he/she is the actual and only person responsible for the child and for making decisions on the student's behalf. Non-custodial parents have the same rights concerning access to their student's educational records as do parents who have custody. Boards may use the 45-day period to inform the custodial parent and afford him/her the opportunity to present a court order or other binding instrument barring the release of the data requested.

Education Record: a record which is maintained within the school district which relates to the preschool, elementary, or secondary school education of a student within the district and which is accessible to more than one educator or other professional within the school district.

Personally Identifiable: information that includes the name or address of the student, the student's parent or other family member, a personal identification such as the student's unique identification number, or a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

### Records Kept in the District

Student Cumulative Records: the student cumulative record is initiated upon the student's entry into school, and follows the student through his/her school career. By the time the student completes secondary school, the record will include the following kinds of information: personal identification data; attendance records; health history; end of the year developmental suggestions; academic history including subjects and teachers by semester and year, units of study, summer school credits, subjects and grades failed and subjects dropped, secondary school subject sequences, type of diploma and date of graduation, report cards, standardized transcript, correspondence which is pertinent to the educational development of the student, records of suspension or other disciplinary matters; and honors and awards.

### Inspection of School District Records

Refer to the Board of Education Policy 1120; 1120-R; 1120-E.1; 1120-E2.

Appropriate school district personnel will be present during record inspection to interpret and explain records during the school year. Records may be inspected between 9:00AM and 3:00PM. Copies of documents will be made available at a cost of \$.25 per page. Parents may be accompanied by any person in reviewing records or may have an appropriately authorized representative inspect and review only the information relating to their child.

#### Release of records to third parties:

1. Release with consent – except under certain limited circumstances set forth in this policy and permitted by the Family Educational Rights and Privacy Act, education records will be released to third parties only with the prior written consent of the parent or eligible student.
2. Release without consent – records may be released without consent only under the following circumstances:
  - a. Directory information may be disclosed, where appropriate, without consent.



- b. Educational records concerning a particular student may be released only to staff members who have responsibility for the student, and then only if it is educationally necessary to consult the records.
- c. Records in the custody of the Special Education Department may be released to school officials and members of the Committee on Special Education or Preschool Special Education only for the purposes of the identification of a student's disability and development of an individualized education program.

Portions of the cumulative record or current evaluations and IEP may be released without consent to another school under the circumstances indicated below:

- If the principal of the school maintaining the record has received written notification of the student's intent or attempt to enroll there, or
- If the committee on Special Education has recommended placement in such school.

**Records disclosed pursuant to this provision without express written consent, will be only those deemed by the Director of Special Education services to be essential for the provision of educational services or educational planning. The district will notify parents' of eligible students prior to transfer of records. They may request and receive copies of records transferred under this provision. Transcripts will not identify courses as special education courses without the written consent of parent or eligible students.**

- d. Records may be released without consent to federal and state officials in connection with evaluation of federally supported education programs or enforcement of federal requirements. Persons reviewing records under this provision must sign a written form, to be kept in the student's folder, indicating their interest in the records.
- e. With the approval of the Superintendent of Schools, records may be released without consent to organizations, public and private, conducting studies for or on behalf of, educational agencies. The district shall require recipients of such information to provide written assurances that personally identifiable information will not be further released and that all the information received will be destroyed when no longer needed for the study.
- f. Records may be released without consent to accrediting organizations to carry out their accrediting functions.
- g. Records may be released without consent to comply with judicial orders or lawfully issued subpoenas. A subpoena will be considered to be lawfully issued when it is issued by a court, or when counsel to the school has reviewed it and found it to be lawfully issued. Before making such a disclosure the district must sent written notice to the parent or eligible student.
- h. Records may be released without consent in health or safety emergencies if such disclosure is deemed by the official making the disclosure to be warranted by the seriousness of the threat to the health or safety of the student or other persons and if the information is necessary to meet the emergency. Such records will be released without written consent only in the event that the person, to whom the information is disclosed, is qualified to deal with the emergency and time is an important factor in dealing with the emergency.

### Records of Request for Access to Education Records

Current special education staff and administration have the right to continuous access to the special education student files. In addition, for all others, the district will maintain a record of all requests for disclosure of information from, or permission for access to, a student's special education or general education record and will keep a record of all information disclosed and access permitted. Such record will not include request for access by the parents who have responsibility for the student, the student, persons whose request is accompanied by prior written consent or a party seeking Directory Information. The access record will be kept with the cumulative record, or, in the case of records pertaining to special education, with those records. It will be available only to the record custodian, the eligible student, the parent of the student, or to public officials for the purpose of auditing or enforcing the requirement of federally supported educational programs. The record will include:

- The name of the person or agency that made the request, the interest the person or agency had in the information, the date of the request;
- Whether the request was granted, and if so, the date access was permitted;
- Such record will be maintained as long as the student's education record is maintained.

### Procedure for maintaining confidentiality of CSE/CPSE Records

Student records and files are kept in locked files in an office that is also locked when left unattended.

The CSE/CPSE secretary monitors access to student files. They acknowledge and are familiar with all staff that has access. Professionals visit the Special Education Office when they need access to a file. The CSE/CPSE secretary obtains the file and the professional proceeds to a designated area where review can take place. When the professional review is complete, the file is returned to the CSE/CPSE secretary.

Only professionals who are working with the student and parents who are members of the CSE are allowed access to the records. Specified support staff are also allowed access to student files in order to complete tasks such as filing, sending and receiving records, etc. The student's original record is NOT allowed out of the office at any time.

### Procedure to seek to correct education records

Parents and eligible students have a right to seek to change any part of a student's record which they believe to be inaccurate, misleading, or in violation of the student's rights.

The parent or student shall notify the principal or Director of Special Education of objections and shall prepare and sign a statement identifying the records believed to be inaccurate, misleading or otherwise. The Director of Special Education will hold an informal conference with the parent or student and, when possible, with the maker of the record. If after reviewing the record and objections to it, the Director of Special Education finds no basis for amendment, they will advise the student or parent, in writing, and advise them of the right to a hearing.

The Director of Special Education will also advise the student or parent of the right to place in the educational record a statement on the challenged information and/or setting forth any reason for disagreeing with this decision. An explanation placed in an education record under this paragraph shall be maintained by the district and part of the education record as long as the record is maintained by the district. It will be released by the district with the education record whenever such release is authorized by the provisions of this policy.

An appeal from a hearing concerning the educational records of a general education student may be made to the FERPA office of the U.S. Department of Education.

#### Hearing Process

A hearing pursuant to paragraph 1 will be held upon request and the parents will receive timely notice of the place, date and time. The hearing officer may be the superintendent of Schools or a designated school official having no interest in the hearing's outcome. The parents may, at their own expense, be assisted or represented by one or more individuals of their choice, including an attorney, and will be afforded a full and fair opportunity to present evidence.

After taking evidence, the hearing officer shall render a written decision, stating the disposition of the challenge and the reasons for the determination. If the hearing officer decides that the record is not accurate or is otherwise in violation of the rights of the student, he/she shall direct the principal or Director of Special Education to make the appropriate changes. Otherwise he/she shall advise the parent of the right to place in the education record a statement on the challenged information as described in paragraph 2.

A parent who disagrees with the findings of the hearing officer may request a review by the Board of Education and in the case of special education records, by the Office for Special Education Services. Thereafter, special education records or entries in the cumulative record may be reviewed at the federal level by the Family Policy and Regulation Office, U.S. Department of Education, Room 1087FB 6400 Maryland Avenue, S.W., Washington, D.C. 20202. In either case, a complaint may be in the form of a letter and should include specific claims of policy violations. If the Family Policy and Regulations Office determines the District to be out of compliance with applicable law and if resolution cannot be reached informally, the office may refer the case to the Compliance Board of the U.S. Department of Education for a formal resolution of the conflict before an administrative law judge.

## Special Provisions relating to Alcohol or Drug Abuse services & AIDS

Services provided within the school district to diagnose drug or alcohol abuse or to provide treatment or direct referral for treatment will be subject to Federal Regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. Information verbal or in written form, indicating participation in such program will not be released without the student's written consent.

Effective February 1, 1989, all school personnel are required by law to protect the privacy of students or other people (i.e., family members) identified in student records as having AIDS or having tested positive for exposure to the virus.

Each release of such information requires the express written consent of the parent, or the student, if over the age of 18. A separate consent is required for each disclosure. A consent for release of information which allows a school district to receive such information does not authorize disclosure by school personnel.

When the district has received confidential HIV related information regarding a student, the Superintendent shall request a meeting with the student's parent or legal guardian for the purpose of discussing the student's condition, concerns and, should the need arrive, educational alternatives. Such alternatives may include homebound instruction during periods of short-term illness, as well as provisions of educationally related support services. If a parent or guardian concurs in writing to the provision of educational alternatives, no referral to the CSE will be made. However, where the parent or guardian does not concur, and where a student is suspected of having a disability, the Superintendent shall request the parent or guardian to give informed written consent for disclosure of confidential HIV information to the CSE. If such consent is refused, the Superintendent may request that the Board of Education seek a court order to such disclosure.

In making its determination, the CSE shall consider the following factors:

1. The physical condition of the student and any behavior which might increase the risk of transmission of the HIV virus; and
2. The expected type of interaction with others in the school setting.

**SECTION 8**  
**DISCIPLINE**

School Conduct and Discipline

In accordance with the Regulations of the Commissioner of Education, the Elmsford Union Free School District has adopted and implemented a written policy on school conduct and discipline designed to promote responsible student behavior. A copy of the policy is on file in each school building and is available for review by any resident of the district.

Students with disabilities who are mainstreamed in the schools of the district are generally expected to meet mainstream standards for school conduct and are subject to district-wide policy. However, when a student with a disability repeatedly violates school rules, the student will be re-evaluated by the Committee on Special Education to determine whether the inappropriate conduct is related to the disability and whether a change in services or placement is appropriate. When the conduct is related to the disability, students with disabilities will be treated in accordance with their individual educational needs.

Disciplinary change in placement means a suspension or removal from a student's current education placement that is either:

1. For more than ten (10) consecutive school days; or
2. For a period of ten (10) consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

Authority of School Personnel – School personnel may change the placement of a student with a disability to the extent that such alternatives would be applied to students without disabilities:

1. To an appropriate interim alternative educational setting, or suspension, for not more than ten (10) consecutive school days; and
2. To an appropriate interim alternative education setting (IAES) for not more than 45 days if the child brings a weapon or knowingly possesses/uses, sells, or solicits illegal drugs while at school or at a school function.

The Superintendent of Schools may order a change in a placement of a student with a disability to an IAES directly or upon recommendation of a hearing officer even when the CSE determines that the student's behavior is a manifestation of the student's disability. The setting shall be determined by the CSE.

Either before or not later than ten (10) business days after taking the disciplinary action described above:

1. The CSE will meet to develop an assessment plan to address that behavior; or

2. If the student already has a behavioral intervention plan, the CSE will review the plan and modify it, as necessary, to address the behavior.

### Superintendent's Hearing on Disciplinary Charge against Student's with Disabilities

Superintendent's hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and penalty phase and conducted in accordance with the following procedures:

1. The Superintendent of Schools or hearing officer in the superintendent's hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty, the Superintendent of Schools or hearing officer shall determine whether a suspension or removal in excess of 10 consecutive school days in a school year or a disciplinary change in placement should be considered. If such a suspension or removal is considered, before the superintendent orders or the hearing officer recommends any such removal, the Superintendent's hearing shall be adjourned until a manifestation determination is made by the Committee on Special Education, except in cases where IAES has been ordered. If the Superintendent or hearing officer determines that a suspension or removal that would constitute a disciplinary change in placement should not be considered, the hearing shall proceed to the penalty phase.
2. Upon determination by the CSE that the behavior of a student with a disability was not a manifestation of the student's disability, the student may be disciplined in the same manner as a student without a disability, except that the student shall continue to receive services. Upon receipt of notice of the determination, the Superintendent or hearing officer shall proceed to the penalty phase of the hearing. If the CSE determines that the behavior was a manifestation of the student's disability, the Superintendent or hearing officer shall dismiss the Superintendent's hearing, except in cases when IAES has been ordered.
3. For the penalty phase, the school district will transmit copies of the special education and disciplinary records to the Superintendent or hearing officer for consideration.

### Manifestation Determination Review

If any of the disciplinary actions above are contemplated or if a disciplinary action involving a change of placement for more than 10 school days is contemplated for a student with a disability who has engaged in any behavior that violated any rule or code of conduct of the district that applies to all children: (1) not later than the date on which the decision to take that action is made, the parents shall be notified of that decision and of all procedural safeguards accorded under this section; and (2) immediately, if possible, but in no case later than 10 school days after the date on which the decision to suspend or change placement, a meeting of the CSE and other qualified personnel will be scheduled to determine the relationship between the student's disability and the behavior subject to the disciplinary action.

In carrying out the review, the CSE may determine that the behavior of the student was not a manifestation of such student's disability only if the CSE first consider(s) in terms of the behavior subject to the disciplinary action, all relevant information, including: evaluation and diagnostic results, including such results and other relevant information supplied by the parents of the student; observations of the student; and the child's IEP and placement; and then determines that: in relationship to the behavior subject to disciplinary action, the student's IEP and placement were appropriate and the special education services, supplementary aids and services and behavior intervention strategies were provided consistent with the student's IEP and placement; the student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to the disciplinary action; and the student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

A special education student may be suspended by a building principal more than once during a school year, but a series of short-term suspensions adding up to ten (10) days in the same school year may be considered a change in placement, requiring prior evaluation and CSE review. Therefore, building principals, in consultation with the chairperson of the CSE, will monitor the total days and pattern of suspensions with respect to each special education student. If a student has already been suspended on multiple occasions, or if his/her behavior suggests that a "revolving door" pattern of suspensions is developing, the principal is expected to consult with the CSE before, again, suspending a student for disciplinary reasons.

In addition, if a special education student repeatedly violates school rules, any member of the professional staff of a school may ask the CSE to review the student's placement. The parent is invited to the meeting. The Committee, after re-evaluation of the records, may determine that the student requires a different program, within or outside the district. The CSE may develop a behavioral intervention plan at that time or review the existing plan and its implementation to determine if modifications are necessary. The parent has the right to seek an independent evaluation or to appeal. The student's class setting will not be changed during the course of the review of appeal procedures.

#### Determination of setting

An interim alternative educational setting in which a student is placed by either school personnel or a hearing officer shall: (1) be selected to enable the student to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the IEP, that will enable the student to meet the IEP goals; and (2) include services and modifications designed to address the behavior described above so that it does not recur.

#### Parent Notice of Disciplinary Removal

No later than the date on which a decision is made to change the placement of a student with a disability to an IAES, or a decision is to impose a suspension or removal that constitutes a disciplinary change in placement, the parent shall be notified of the decision and shall be provided the procedural safeguards notice.

## Parent Appeal

If the parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement, the parent may request a hearing. The district shall arrange for an expedited hearing in any case described in this section when requested by a parent.

In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the student's behavior was not a manifestation of such student's disability consistent with the requirements for a manifestation determination review. In reviewing to place a student in an interim alternative educational setting, the hearing officer shall apply the standards indicated in "Determination of Setting".

When a parent requests a hearing to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period discussed in sections "Authority of School Personnel" and "Authority of a Hearing Officer", whichever occurs first, unless the parent and the district agree otherwise.

If the student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after the expiration of the interim alternative educational placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (the student's placement prior to the interim alternative educational setting), except where the student is again placed in an IAES by an Impartial Hearing Officer in an expedited hearing described below.

### Authority of an Impartial Hearing Officer

An impartial hearing officer may order a change in placement of a student with a disability to an appropriate interim alternative educational setting, in a dangerous situation, for not more than 45 days if the impartial hearing officer:

1. Determines that the district has demonstrated substantial evidence that maintaining the current placement is likely to result in injury to the student or to others;
2. Considers the appropriateness of the student's current placement;
3. Considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
4. Determines that the interim alternative educational setting meets the requirements.

### Expedited Hearing

If school personnel maintain that it is dangerous for the student to be in the current placement during the pendency of the due process proceedings, the district may request an expedited hearing. An expedited due process hearing shall be completed within fifteen (15) business days



of receipt of the request for a hearing, provided that the impartial hearing officer may grant specific extensions of times at the request of either the school district or the parent. The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, Board of Education within 5 business days after the last hearing date, but in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extension. In determining whether the student may be placed in the interim alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards indicated in “Authority of a Hearing Officer”.

Notwithstanding anything in this policy, if the Superintendent concludes that the student’s presence in the school creates a substantial likelihood of danger to himself or others, the school district will seek injunctive relief in a state or federal court with respect to a change of placement pending the outcome of review proceedings.

#### Protections for Students not yet eligible for Special Education and Related Services

A student who has not yet been determined to be eligible for special education under this part and who has engaged in behavior that violated any rule or code of conduct of the district, including any behavior described above, may assert any of the provisions described herein if the district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A district shall be deemed to have knowledge that a child is a child with a disability if:

- The parent of the student has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the district that the student is in need of special education or related services.
- The behavior or performance of the student demonstrates the need for such services;
- The parent of the student has requested an evaluation of the student; or
- The teacher of the student or other personnel of the district has expressed concern about behavior or performance of the student to the CSE or other personnel of the district.

If the district determines that there is no basis for knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as students without disabilities who engaged in comparable behaviors. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under section “Authority of School Personnel” or “Authority of Hearing Officer” above, the evaluation shall be conducted in an expedited manner. An expedited evaluation shall be completed no later than fifteen (15) school days after receipt of the request for evaluation. The CSE shall make a determination of eligibility of the student in a meeting held no later than five (5) school days after completion of the expedited evaluation. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this part, except that, pending

the results of the evaluation, the student shall remain in the education placement determined by school authorities, which can include suspension.

#### Referral to Law Enforcement Authorities

Nothing prohibits a district from reporting a crime committed by a student with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities. A district reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports a crime.

**SECTION 9**  
**ACCESSIBILITY**

Access to Academic and Disciplinary Conferences

It is the policy of the school to assure access for parents of students with disabilities to school-initiated conferences with respect to educational planning or school discipline. Accordingly, a sign language interpreter will be provided, upon request, to hearing-impaired parents who require such assistance. Parents requiring this or another accommodation (i.e., translators, barrier-free site) to participate in meetings of the Committee on Special Education or Preschool Special Education are requested to notify, in writing, the Special Education Office at the beginning of the school year, at the time of enrollment, or at least five days prior to the scheduled meeting or activity.

Access to Programs and Extra-Curricular Activities

Students with disabilities residing in the district have the opportunity to participate in all programs and activities administered by the district and available to the students enrolled in district public schools, providing that the students seeking to participate are otherwise qualified to participate in such programs and activities. These may include general classroom instruction, occupational education programs, ENL programs, laboratory instruction, support services, extracurricular activities and programs, special assemblies and events and career education programs.

Title IX of the Education Amendments of 1972

Employment and educational opportunities, vocational educational opportunities, are offered by the Elmsford Union Free School District to boys and girls on an equal basis without discrimination on the basis of sex.

Discrimination on the basis of sex in education programs and activities is prohibited by Title IX. The district official responsible for the coordination of activities relating to non-discrimination is Mr. Jeffrey J. Olender. He will provide information, including information on complaint procedures, to any student or employee who feels that his/her rights under Title IX may have been violated by the district or its officials. In addition, any student or employee may make an inquiry or a complaint directly to the Federal Office for Civil Rights or New York State Division of Human Rights.

## **SECTION 10**

### **MISCELLANEOUS**

#### **Screening Procedures**

Comprehensive programs have been developed by the school district to locate, identify and provides programs for those students who need Pupil Personnel Services. Diagnostic screenings are conducted for kindergarten students, new entrants into the district, and students scoring below reference points on State examinations.

The diagnostic screening includes a health examination, review of immunization records, and a determination of receptive and expressive language development, motor development, articulation skills and cognitive development. A report is prepared containing the results of the diagnostic screening conducted on each student.

Screenings are conducted as follows

**Kindergarten Screening** – all pre-kindergarten students are screened in the spring/summer prior to scheduled entrance into kindergarten.

**New entrant screening** – all new entrants are screened no later than December 1<sup>st</sup> of the school year of entry or within fifteen (15) days of transfer should the entry occur after December 1<sup>st</sup>.

Students suspected of having a disability as a result of diagnostic screening must be referred to the CSE within fifteen (15) days after completion of the screening. Parents of any student suspected of having a disability which indicates the possible need for special education services will be notified.

#### **Guidelines for providing public school services to students in non-public schools**

The procedures to locate, identify, and evaluate all non-public, private school students with disabilities, including religious school children residing in the school district, must be comparable to activities undertaken for students with disabilities in public schools. The Board of Education or their designee shall consult with appropriate representatives of private school students with disabilities that may include representatives of organizations of non-public school groups, selected parents of students enrolled in non-public schools and selected representatives of the non-public schools in the school district, on how to carry out the activities described in the Regulations of the Commissioner of Education.

### Referrals for Evaluation of Students thought to be disabled

Resident and non-resident students who attend non-public schools within the district may be referred to the Committee on Special Education of the Elmsford Union Free School District in exactly the same manner as students who attend public schools.

A child with disabilities enrolled by their parents in private (non-public schools) is Section 3602-(c) of the Education Law amended by Chapter 378 (2007).

In the case of the non-resident student, the referral will immediately be directed by the building administrator of the non-public school to the Director of Special Education of the Elmsford Union Free School District.

1. In the case of a non-resident student, regular referral procedures are followed. The CSE (or building designee) obtains parental consent for evaluation and schedules the evaluation with the school psychologist. The Elmsford Union Free School District or District of Location CSE will obtain consents to communicate with and bill the district of residence, will obtain consent to evaluate, and will conduct the CSE meeting to determine eligibility. In the event the student is eligible for special education services, an Individualized Education Service Plan (IESP) will be developed.
2. In all cases (resident or non-resident), if parents are requesting services for the upcoming school year, a letter requesting services needs to be sent to the Director of Special Education and received June 1<sup>st</sup> of the preceding school year.

### Services to students identified as disabled

1. If a student is identified by the Committee on Special Education as being in need of special education, the Committee must notify the parent that the student is entitled to an appropriate education at public expense. However, if the parent wishes to continue the student in non-public school, the district may offer related services to assist the student to benefit from general education.
2. If a parent disagrees with any recommendation of the Committee with respect to other identification or choice of services, the parent may appeal the recommendation to an impartial hearing officer in accordance with Section 200.5 of the Regulations of the Commissioner of Education.
3. Related services and educational services for both resident and non-resident students will be provided within the district in which the non-public school is located, if at all possible. Related services include counseling, speech and language therapy, occupational therapy, physical therapy, and any other health or welfare services.

## Reimbursement for Unilateral Placement in a Private School

A school district is not required to pay for the tuition for a student with a disability placed in a private school or facility by a parent if that school district made a free appropriate public education available to the student and the parents, instead, elected to place the student in the private school or facility.

If the parents of a student with a disability, who previously received special education and related services under the authority of the district, enroll the student in a private elementary or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made a free appropriate public education available to the student in a timely manner prior to that enrollment.

The cost of the reimbursement may be reduced or denied if:

1. At the most recent IEP meeting that the parents attended prior to their removal of the student from the public school, the parents did not:
  - a. Inform the committee that they were rejecting the placement proposed by the district to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense, or
  - b. 10 business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the school district of the information prescribed in the preceding paragraph.
2. If, prior to parental removal of the student from the public school, the school district informed the parents, through the notice requirements described in section 615(b)(7), of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or
3. Upon judicial finding of unreasonableness with respect to actions taken by the parents.

The cost of reimbursement may not be reduced or denied for the parents' failure to provide written notice if:

- The parent is illiterate and cannot write in English;
- Compliance would likely result in physical or serious emotional harm to the student;
- The school prevented the parent from providing such notice; or
- The parents did not receive notice, pursuant to section 615, of their obligation to provide the written notice described above.

## CENSUS PROCEDURES

The Elmsford Union Free School District will ensure that students with disabilities are located through the following procedures:

- A statement will be added to the Special Education web page asking if any student is known who might require special education services. This statement will be as follows:

The Elmsford Union Free School District is attempting to locate any students between the ages of 3-21 who may reside within the district who may have a physical, mental, emotional, and medical or developmental disability, which would require special education programs or services. If you have any knowledge of a student who may meet these criteria, please contact the Director of Special Education Services at 914-592-4615.

- If a student is identified who might require special education services, the parents or guardians will be directed to contact the Special Education Department of the Elmsford Union Free School District.
- All new entrants will be asked, through registration procedures, if a student has been receiving special education services in a previous district or if a preschool youngster, through Early Intervention Services. If services have been received, the building will refer the student to the Special Education Department immediately.
- All private schools and preschools located within the district will be sent a letter, describing the referral process for any student suspected of having a disability.

A register of all students identified as disabled will be maintained in the Special Education Office.

### Space Allocation for Special Education Programs

It is the policy and practice of the Board of Education of the Elmsford Union Free School District to ensure, to the fullest extent possible, that students with disabilities residing in the district shall be educated within the school district.

It is the policy and practice of the Board of Education of the Elmsford Union Free School District to ensure, to the fullest extent possible, the allocation of appropriate space within the District for special education programs that meet the needs of school-age students with disabilities. Special education services shall not be denied simply because of a lack of appropriate space.

When a present class exceeds the legal limit of twelve or fifteen students permitted by education law, a variance from the State Education Department will be obtained or a new class will be formed.

At least once per year, a staff member from the District's Special Education Department will visit the placement of each resident student who attends a BOCES special education program to assure the appropriateness of the space allocated for that placement.

The District will continue to provide space, to the extent available, for school-age students from other school districts who need self-contained classes not available in their home schools.

### Methods for Evaluating Program Objectives

Through the use of assessment techniques such as staff reports, interviews with faculty, parents and students, site visits, etc., data will be gathered relative to the success of the delineated objectives.

The data will be analyzed to provide summary information to assist the district in decision-making regarding revisions and modifications for programs, services, and procedures.

The goal of the special education program in the district is to provide each student with individualized instruction designed to help each student compensate for his/her disability in order to more fully reach his/her potential.

The methods used to evaluate the extent to which the objectives of the special education program have been achieved are:

- Ongoing evaluation of student achievement using various standardized diagnostic tests and other teacher made assessments;
- Annual reviews of students' progress and programs, resulting in revised comprehensive IEP's;
- Qualitative techniques such as teacher observations and conferences, classroom observations, anecdotal reports, and end-of-year student summary;



- Triennial re-evaluations of each student with a disability as outlined in 200.4(b)(4) of the Commissioner's Regulations; and
- Biennial review of the district plan.

**SECTION 11**

**DISTRICT PROGRAMS**

Summary of District Day Programs

LOCATION/PROGRAM TITLE	DESCRIPTION
Consultant Teacher Services Alexander Hamilton Grades 7-12	Minimum of two (2) hours of service per week given to the student and/or the mainstream teachers to support the student in the mainstream. The primary focus is skills-based instruction.
Resource Room Alexander Hamilton Grades 7-12	Minimum of three (3) hours per week of instruction to students with disabilities provided by a special education teacher in a separate location.
Special Class (as appropriate) Alexander Hamilton Grades 9-12	Special class 15:1 for children with mild to moderate disabilities. These classes are primarily focused in ELA and Math instruction.
Integrated Co-Teaching Alice E. Grady Grades 2-6	Integrated general education class, collaboratively taught by a special education teacher and a general education teacher.
Special Class Alice E. Grady Grades 5-6	Departmentalized special class program (15:1) emphasizing academic skills, modified school curriculum for students with learning disabilities.
Special Class Alice E. Grady Grades 2-4	Special class (15:1) for children with moderate to severe learning disabilities requiring intensive academic instruction.
Special Class Carl L. Dixson Grades K-1	Special class (15:1) for children emphasizing academic and behavior skills.

Note: Opportunities for integration in the general education programs are provided in all programs on an individual basis, as determined by the CSE. Students in all instructional groups are placed according to the similarity of their needs.

## Consultant Teacher Services

The services of a consultant teacher are recommended for students who are fully integrated into general education classes. The service is available for students in grades seven through twelve who can benefit from instruction in the general curriculum, and who require special education services.

The consultant is a certified special education teacher who works either directly with the student or indirectly (with the teacher) for minimum of two (2) hours per week. Through collaboration with the general education teacher and other specialists, an individualized program is designed to assist the student's learning within the general education setting.

### **Staff**

In addition to the consultant teacher who works in collaboration with the general education teacher, support staff may include the speech/language therapist, school psychologist, social worker, teacher assistant and other support personnel.

### **Needs**

While every special education program must address individual learning styles, students served in the consultant teacher model share the following similarities:

The student is able to learn within the general education classroom with indirect and/or direct intervention from the special educator.

### **Teacher's Role**

The role of the consultant teacher is to collaborate with the classroom teacher, the parent and other support staff in the development of an appropriate classroom program. This may include the modification of materials, procedures, and methods of instruction, or, at times, direct instruction to the student.

## Resource Room Program Grades 7-12

The Resource Room program consists of identification and diagnostic assessment, and direct, individualized, small group instruction in strategic behaviors that students need to master concepts and information. These include organization of time, priority goals settings, appropriate study skills, academic reinforcement and communication skills. Transfer of the skills or strategies acquired to the academic demands of the general education settings is provided. Students are prepared to become self-advocates in expressing academic needs and are aided in identifying and utilizing services to support academic needs. Services are provided as a scheduled class on the student's academic schedule. Ongoing consultation with general education teachers is an integral part of this resource program.

Recommended capacity is five (5) students per class with twenty-five (25) students per certified special education teacher. The program serves students in grades 7-12.

### **Staff**

The 7-12 resource room program consists of a special education teacher.

### **Needs**

While every special education class and/or program must address individual learning styles, students in the Resource Room program share the following similar needs:

#### Academic:

- Teach specific learning strategies to assist students in working independently
- Develop compensatory skills and gain knowledge regarding individual learning styles
- Develop organizational and study skills.

#### Management

Clarity of expectations, structure, support and encouragement

- Encourage independence in social and academic situations
- Develop age appropriate social skills

#### Social

- Develop age-appropriate behavior
- Improve interpersonal skills with peers and adults
- Develop a sense of competency; improve self-esteem, and a positive attitude towards school.

#### Physical

- Improve fine motor skills

### **Teacher's Role**

The special education teacher focuses on helping the special education student who has learning disabilities develop learning strategies that will help the student compensate for his/her specific difficulties and promote independent learning. The resource room teacher works closely with the general education teachers so that instruction in the resource room is aligned with the general education curriculum.

### **Support Services**

Other support services to the student may include speech and language therapy, occupational therapy, physical therapy, counseling.

## Special Class Program Grades 9-12

Grades 9-12 special classes are in ELA and Math. These classes are designed for those students who require more intensive academic instruction and remediation. The age range for students is three (3) years and the classroom ratio is 15:1.

Course content parallels with the general education curricula. The teachers modify the teaching techniques to enhance student participation and comprehension. In addition to course content, skill development is taught and reinforced. Teachers are guided by the student's IEP. Behavioral needs are addressed within the classroom setting.

### Academic

- Individual and small-group instruction at a modified pace to meet student needs;
- Cooperative learning techniques incorporate strengths and aid in student motivation;
- Institutes structure, organization and accountability into students' self-concept.

### Physical

- Strengthening of fine motor skills;
- Can reinforce gross motor skill development.

### Social

- Development and reinforcement of social skills – verbal and nonverbal communication;
- Implementation of appropriate role model within the typical class setting;
- Increase awareness of individual differences of self and others;
- Development of behavior management techniques to be incorporated.

### Management

- Student requires moderate supervision in an academic and behaviorally oriented environment;
- Continuously refocusing is essential.

### **Teacher's Role**

In addition to the teaching of academic skills, the role of the teacher is primarily to provide curriculum modification and support. Students are taught a variety of learning skills and strategies in addition to the modified content, so they are prepared for possible integration and to ensure that they are able to meet the same requirements as their general education peers.

## K-4 Special Class

The K-4 special classes serve students with disabilities. The age range of the students is three (3) years and a ratio of 15:1. These students may function above grade level in some areas and significantly below grade level in one or more areas of learning. They require specialized instruction based on an adaptation of the general education curriculum. Students in this program generally require special education services for more than fifty percent of the day in a small setting.

The primary program consists of a language-based instructional approach to develop readiness and competency in primary level skills. Students are mainstreamed in some special areas (art, music, physical education and lunch) as well as academic areas, when appropriate. Ongoing consultation with the general education teacher when the student is mainstreamed is an integral part of the design.

### **Staff**

The special class staff consists of a multi-disciplinary team, which includes a full-time special education teacher and teacher assistant/aide. Support staff may also include a school psychologist, social worker, speech and language therapist, occupational therapist, physical therapist, or a behavior interventionist.

### **Needs**

While every special education class and/or program must address individual learning styles, students in these classes share the following similar needs:

#### Academic

- Emphasis on cognitive and language development
- Intensive instruction in reading, writing and mathematics at the appropriate level for each child
- Development of appropriate study and organizational skills;
- Development of problem-solving abilities and thinking skills
- Develop the ability to work independently in a variety of settings

#### Social

- Encourage effective age-appropriate social interactions through both individual and group experiences;
- Development of age-appropriate self-help skills

#### Management

- Increase ability to work independently in social and academic situations
- Provide a structured environment with clearly defined limits on behavior
- Emphasis on individual responsibility, self-control and autonomy

## Physical

- Improve fine and gross motor skills and coordination
- Provide individualized instruction to improve mobility, manual dexterity, vision, hearing, etc.

## **Teacher's Role**

The teachers in these classes, in addition to providing intense academic instruction, assess and monitor student's progress to determine when and if mainstreaming can occur. The primary aim of the class is to adapt the general education curriculum to meet the individual needs of the student and to remediate the academic weaknesses of the student so that he/she can return to a general education class. At all times, parents are involved in this process and play an integral role in supporting and assisting the teacher in this effort.



## Other Support Services

### School Psychologist Services

The following major areas of responsibility are assigned to school psychologists:

- Assessment
- Observation
- Test administration and interpretation
- Participation in the Committee on Special Education (CSE)
- Leading the Response to Intervention team
- Referral, evaluation and placement
- Monitoring of student progress
- Consultation with teachers
- Student and parent counseling
- Liaison activities with community agencies and other professionals.

Additional functions relating to special education classes include:

- Assisting teachers in the development of interventions
- Assisting teachers in the development of the IEP
- Monitoring the delivery of services to special education students
- Coordinating CSE annual review meetings
- Conducting triennial reevaluations

Counseling as a related service

Counseling as a related service will be recommended by the CSE under the following circumstances:

- An emotional or management difficulty interferes with a student's ability to make appropriate educational gains;
- The difficulty is one which, in the clinical judgement of the evaluation team, can be addressed through school-related counseling with a qualified professional; and
- The student does not appear at the present time to require medical intervention or a therapeutic milieu in order to make educational gains.

### Social Worker

Within the Department of Special Education services, the social worker provides the following services:

- Monitoring students' progress
- Providing transitional support services to students moving into programs that are less restrictive (i.e., when returning to the district from out-of-district placements);

- Providing parent education;
- Intervening during crisis (i.e., child abuse, PINS petitions)
- Serving as general liaison between school and home.

### Speech and Language Services

Specialists in speech and language assist school staff with the identification and instruction of students with speech, language and hearing disorders. They provide diagnostic and remedial services for students with articulation disorders, stuttering and voice disorders, expressive and receptive language problems, hearing deficits, cerebral dysfunction, oral and motor disorders and cleft palate. Much of the activity of these specialists involves observation, individual testing, and conferences with parents and consultations with teachers regarding instructional methods.

### Physical Therapy

Physical therapy is provided in order for a student with a physical disability to benefit from education or to be maintained in the least restrictive environment. The following services may be provided: coordination between medical agencies and professionals serving the student; evaluation of strength, function, motor development and adaptive need of the student; program planning and treatment program when indicated; consultation with general education teachers in the mainstreaming process; and supervision and instruction of non-professional personnel in dealing with the physical needs of the students.

### Occupational Therapy

The occupational therapist serves children whose disabilities prevent them from functioning normally within the school environment. The duties of the occupational therapist include individual assessment, increasing strength and quality of movement of the upper extremities necessary for handwriting and other classroom fine motor tasks, modulating a student's sensory responses that interfere with everyday activities, developing the activities of daily living, providing adaptive equipment as necessary and counseling students with disabilities around their participation in activities. The goal of the occupational therapist is to provide appropriate treatment to increase the student's ability to function independently in the school environment.

### Hearing Services

Hearing services are designed to provide direct specialized instruction to students, ages five (5) to twenty-one (21) years of age, with hearing impairments who are enrolled in a general or special education program. Specialized instruction in speech, reading and auditory training are provided by a teacher of the deaf and hard of hearing. These services are necessary in order for students to benefit from their primary education program.

### Vision Services

Vision services are designed to provide direct specialized instruction to students' age five (5) to twenty-one (21) years of age with visual impairments who are enrolled in a general education or special education program by a teacher of the visually impaired. This related service includes direct instruction in the use of optical aids, use of large print books, worksheets, orientation and mobility services, tactile and recorded material and current technology. Teachers may also assist

students in acclimating themselves to new instructional environments and may assist other teachers in meeting the student's educational needs.

## **SECTION 12**

### **504 Accommodation Plan**

Section 504 is a part of the Rehabilitation Act of 1973 that prohibits discrimination based upon disability. Section 504 is an anti-discrimination, civil rights statute that requires the needs of students with disabilities to be met as adequately as the needs of the non-disabled are met.

Section 504 states that “No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...,”[29.U.S.C. §794(a), 34 C.F.R. §I 04.4(a)].

To be covered under Section 504, a student must be “qualified” (which roughly equates to being between 3 and 22 years of age, depending on the program, as well as state and federal law, and must have a disability [34. C.F.R. §104.3(k)(2)].

An impairment as used in Section 504 may include any disability, long-term illness, or various disorders that “substantially” reduces or lessens a student’s ability to access learning in the education setting because of a learning-, behavior-, or health-related condition. [“It should be emphasized that a physical or mental impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities” (Appendix A to Part 104, #3)].

Many students have conditions or disorders that are not readily apparent to others. They may include conditions such as specific learning disabilities, diabetes, epilepsy and allergies. Hidden disabilities such as low vision, poor hearing, heart disease or chronic illness may not be obvious, but if they substantially limit that child’s ability to receive an appropriate education as defined by Section 504, they may be considered to have an “impairment” under Section 504 standards. As a result, these students, regardless of their intelligence, will be unable to fully demonstrate their ability or attain educational benefits equal to that of non-disabled students (The Civil Rights of Student with Hidden Disabilities under Section 504 of the Rehabilitation Act of 1973 – Pamphlet.). The definition does not set forth a list of specific diseases, conditions or disorders that constitute impairments because of the difficulty of ensuring the comprehensiveness of such a list. While the definition of a disabled person also includes specific limitations on what persons are classified as disabled under the regulations, it also specifies that only physical and mental impairments are included, thus “environment, cultural and economic disadvantage are not, in themselves, covered.

Major life activities include, but are not limited to: self-care, manual tasks, walking, seeing, speaking, sitting, thinking, learning, breathing, concentrating, interacting with others and working. As of January 1, 2009, with the reauthorization of the Americans

with Disabilities Amendment Act, this list has been expanded to also include the life activities of reading, concentrating, standing, lifting, bending, etc. This may include individuals with AD/HD, dyslexia, cancer, diabetes, severe allergies, chronic asthma, Tourette's syndrome, digestive disorders, cardiovascular disorders, depressions, conduct disorder, oppositional defiant disorder, HIV/AIDS, behavior disorders, and temporary disabilities (e.g., broken writing arm, broken leg, etc.). Conditions that are episodic or in remission are also now covered if they create a substantial limitation in one or more major life activities while they are active. Students who are not currently using illegal drugs or alcohol are not covered or eligible under Section 504.

Substantially limits is not defined in the federal regulations. However, in a letter from the Office for Civil Rights (OCR), they state, "this determination to be made by each local school district and depends on the nature and severity of the person's disabling condition." New guidance from the Americans with Disabilities Amendment Act states that Section 504 standards must conform with the ADAA and is "intended to afford a broad scope of protection to eligible persons." In considering substantial limitations, students must be measured against their same age, non-disabled peers in the general population and without benefit of medication or other mitigating measures such as learned behavioral or adaptive neurological modifications, assistive technology or accommodations.

Anyone can refer a child for evaluation under Section 504. However, while anyone can make a referral, such as parents or a doctor, OCR has stated in a staff memorandum that "the school district must also have reason to believe that the child is in need of services under Section 504 due to a disability" (OCR Memorandum, April 29, 1993). Therefore, a school district does not have to refer or evaluate a child under Section 504 solely upon parental demand. The key to a referral is whether the school district staff suspects that the child is suffering from a mental or physical impairment that substantially limits a major activity and is in need of either general education with supplementary services or special education and related services [letter to Mentink, 19IDElr 1127 (OCR) 1993]. If a parent requests a referral for evaluation, and the school district refuses, the school district must provide the parent with notice of their procedural rights under Section 504.

According to the federal regulations: "...placement decisions are to be made by a group of persons who are knowledgeable about the child, the meaning of the evaluation data, placement options, least restrictive environment requirements, and comparable facilities" [34 C.F.R. §104.35©(3)].

Unlike Special Education, the federal requirements for Section 504 do not require or even mention that parents are to be a part of the decision-making committee. The decision to include parents in the decision-making committee is a determination that is made by each school district and should be spelled out in the district's procedures for implementing Section 504. Parents should at least be asked and encouraged to contribute any information that they may have (e.g., doctor's reports, outside resting reports, etc.) that would be helpful to the Section 504 committee in making their determination of what the child may need. Schools are expected to make sound,

educational decisions as to what the child needs in order to receive an appropriate education.

Under Section 504, no formalized testing is required. The 504 committee should look at grades over the past several years, teacher's reports, information from parents or other agencies, state assessment scores or other school administered tests, observations, discipline reports, attendance records, health records and adaptive behavior information. Schools must consider a variety of sources. A single source of information (such as a doctor's report) cannot be the only information considered. Schools must be able to assure that all information submitted is documented and considered.

Each child's needs are determined individually. Determination of what is appropriate for each child is based on the nature of the disabling condition and what the child needs in order to have an equal opportunity to compete when compared to the non-disabled. There is no guarantee of A's or B's or even that the student will not fail. Students are still expected to produce. The ultimate goal of education for all students, with or without disabilities, is to give students the knowledge and compensating skills they will need to be able to function in life after graduation.

Accommodations that may be used, but are not limited to include:

- Extended time on tests or assignments
- Peer assistance with note-taking
- Frequent feedback
- Extra set of books at home
- Computer aided instruction
- Enlarged print
- Positive reinforcements
- Behavior intervention plans
- Rearranging class schedules
- Visual aids
- Preferred seating assignments
- Taping lectures
- Oral tests
- Individual contracts.

A Section 504 eligible child will always be in the general education classroom unless (according to federal regulations): "...the student with a disability is so significantly impaired, then the needs of the student with a disability cannot be met in that environment. Therefore, general placement would be appropriate to his/her needs and would not be required by §I 04.34" (34 C.F.R. §I 04.34, Appendix A, #24).

Children under Section 504 are still expected to follow the district's student code of conduct. However, when disciplining a child under Section 504, schools must consider the relationship between the disability and the misbehavior of the child if the child is going to be removed from the general education setting for longer than 10 days. This does not mean that a student with a disability cannot be sent to a discipline center or that

they cannot go to in-school suspension, or be suspended from school for three days. Very strict guidelines exist for schools in discipline issues with students who have a disability under Section 504. Please refer to the information under “Discipline” of this document.

Under Section 504, schools are not required to pay for an outside independent evaluation. If the parent disagrees with the school’s evaluation decision, they may request a due process hearing or file a complaint with the Office of Civil Rights.

While there are no specific timelines on this issue, students must be re-evaluated at least every three years or whenever there is going to be a “significant change in placement.” The 504 committee should re-evaluate your child’s plan every year to make sure that his/her accommodation plan is appropriate based on their current schedule and individual needs. The accommodation plan may be revised at any time during the school year, if needed.

As a parent or legal guardian, you have the right to:

- Receive notice regarding identification, evaluation, and/or placement of your child;
- Examine relevant records pertaining to your child;
- Request an impartial hearing with respect to the district’s actions regarding the identification, evaluation, or placement of your child, with an opportunity to participate in the hearing;
- To have representation by an attorney;
- Have a review procedure;
- File a complaint with the Section 504 Coordinator who will investigate the allegations regarding Section 504 matters other than your child’s identification, evaluation and placement;
- File a complaint with the appropriate regional Office of Civil Rights. For additional information, contact: U.S. Department of Education, Washington, D.C. 20202-100. (800) 421-3481; [www.ed.gov/ocr](http://www.ed.gov/ocr). E-mail: [ocr@ed.gov](mailto:ocr@ed.gov).

## **APPENDICES**



APPENDIX A

Elmsford Union Free School District  
Office of Special Education

Referral to CSE

Student: _____ DOB: _____ School: _____ Grade: _____ Teacher/Counselor: _____ Current Placement: _____ Dominant Language: _____ Other Language Spoken at Home: _____ Translator Needed: ___ Yes ___ No
Parent/Guardian Information: (If student is a foster child, please include caseworker information)  Parent/Guardian Name: _____ Caseworker Name _____ Address: _____ Address: _____ Home Telephone #: _____ Work: _____ Cell #: _____ Telephone #: _____
Reason for Referral: _____ _____ _____ _____ _____
Pre-Referral intervention methods employed & results achieved: _____ _____ _____ _____ _____ _____
Has student ever been retained: ___ Yes ___ No At what level: _____

Has student been previously referred for Special Education at EUFSD?  Yes  No  
Was student declassified?  Yes  No Please  
explain: \_\_\_\_\_  
\_\_\_\_\_

Has parent been informed of this referral?  Yes  No

Additional evaluations requested:  OT  PT  Speech

Please indicate who should be invited to attend this meeting:

Referred by: \_\_\_\_\_ Title: \_\_\_\_\_

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

Building Principal Signature

**APPENDIX B**  
**PROCEDURAL SAFEGUARDS**

New York State Education Department PROCEDURAL SAFEGUARDS NOTICE July 2017  
Rights for Parents of Children with Disabilities, Ages 3-21

<http://www.p12.nysed.gov/specialed/formsnotices/documents/NYSEDProceduralSafeguardsNoticeJuly2017v2.pdf>

APPENDIX C  
DIPLOMA AND CREDENTIAL OPTIONS

## Regents Diploma

**Earn 22 credits:** 4 ELA, 4 social studies, 3 science, 3 mathematics, ½ health, 1 arts, 1 language other than English (LOTE), 2 physical education, 3 ½ electives as well as fulfill attendance requirements and any other district requirements.



### Assessment:

- Pass 5 required Regents exams with a score of 65 or higher on each exam, or
- Pass 4 required Regents exams (including *one* social studies) and either a Pathway Assessment or CDOS Commencement Credential

**Appeal:** One Regents exam (score between 60-64) may be appealed at the district level. Eligibility requirements include:

- Regents exam taken 2 times
- Student has taken advantage of school-provided academic intervention
- Have a passing course average in subject under appeal
- Recommendation by teacher or department chairperson

*A Regents or Local diploma is proof that a student has met the standards for graduation from high school in New York. Once the student earns a diploma he or she is no longer eligible to attend high school.*

## Non-Diploma Credentials

There are exiting certificates available that document students' levels of work-readiness. These credentials are aligned with the NYS learning standards for Career Development and Occupational Studies, which are State standards focusing on vocational preparation.

**Career Development and Occupational Studies (CDOS) Commencement Credential**  
*Available to all students except those who take the NYS Alternate Assessment*

### Option 1:

- Master Commencement Level CDOS standards
- Complete 216 hours of CTE coursework and/or work-based learning activities (minimum of 54 hours of work-based learning required)
- Complete *Career Plan* documenting student vocational goals and preparation
- Complete *Employability Profile* documenting student skills and experiences

Or

**Option 2:** Student must pass a NYS Commissioner-approved National Work-Readiness Exam

### Skills and Achievement Commencement Credential

*Available to students with severe disabilities who take the NYS Alternate Assessment*  
 -Students must attend school for at least 12 years, excluding kindergarten  
 -Documentation of the student's skills, strengths and levels of independence needed for post-school living, learning and working

*A non-diploma credential is not a high school diploma. Most colleges, the military and many jobs, including union and civil service, require high school diplomas.*

# Diploma and Credential Options



## Did you know ....

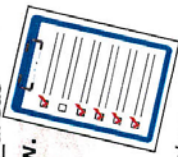
- High school diplomas represent achievement of NYS learning standards, required tests and course credits.
- There are two different diplomas – Regents and Local.
- There are several ways to earn diplomas and different requirements for each.
- Some students may also earn credentials – Career Development and Occupational Studies (CDOS) or Skills and Achievement Commencement Credentials.



12.13.17

## Multiple Pathways (4+1) To Earn Regents and Local Diplomas

Students must pass Regents exams in all four areas listed below.



- ELA
- Math
- Science
- Social Studies (Either Global Studies or US History)

### Plus...

Students choose one Multiple Pathway option from below:

Math (Different from Math exam above)

Science (Different from Science exam above)

Career and Technical Education (CTE) NYS Exam (Approved by NYS Commissioner)

Arts

CDOS Commencement Credential

The Multiple Pathway option replaces one Social Studies exam.

## Local Diploma

Earn 22 credits: 4 ELA, 4 social studies, 3 science, 3 mathematics, ½ health, 1 arts, 1 language other than English (LOTE), 2 physical education, 3 ½ electives as well as fulfill attendance requirements and any other district requirements.

General Education Students and Students with IEPs or 504 Plans

### Local Diploma Through Appeal:

- 3 Required Exams with scores of 65 or higher **and**
- 2 Required Regents Exams with scores of 60-64, successfully appealed

Students with IEPs and 504 Plans

### Low Pass Safety Net

- 5 required Exams with scores of 55 or better

### Low Pass Safety Net and Appeal

- 3 required exams with scores of 55 or better and two Regents exams with scores of 52-54, successfully appealed

### Compensatory Safety Net/Appeal

- Must score a 55 on math and ELA exams. (Note: Appeal may apply allowing student to score 52.)
- If student scores a 65 or higher on any required exam, the score may compensate for another exam score between 45-54.

Multiple Pathways Options and the CDOS Commencement Credential may be used.

## Superintendent Determination and Amendment Local Diploma

Students with IEPs only

Upon written request from the parent or guardian, the superintendent may conduct a review of the student's coursework to determine whether he or she has achieved graduation level proficiency in the subject area where the student was not able to obtain a passing score using Safety Net Options.

In order to qualify students must:

- Earn 22 credits
- Participate in 4 required Regents exams and either 1 Pathway Assessment or earn the CDOS Commencement Credential
- Score a 55 or higher in math and ELA (Note: Scores of 52-54 may be appealed.)

Or (amendment)

- Earn 22 credits
- Participate in 4 Required Regents exams (this may include a Pathway Assessment) and earn the CDOS Commencement Credential

## English Language Learners

General Education Students and Students with IEPs or 504 Plans

### Local Diploma (Through Appeal):

- 3 Required exams with score of 65 or higher **and**
- 1 Required exam with a Score of 60-64 **and**
- ELA exam score of 55-59

