

**PLAINVIEW-OLD BETHPAGE CENTRAL SCHOOL DISTRICT**

**DISTRICT PLAN OF SERVICES FOR SPECIAL EDUCATION**



**Excellence in Education**

**DISTRICT POLICIES, PRACTICES AND  
PROCEDURES FOR ASSURING APPROPRIATE  
EDUCATIONAL SERVICES AND DUE PROCESS  
IN EVALUATION AND PLACEMENT OF STUDENTS  
WITH DISABILITIES**

**2021 - 2025**

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## STATEMENT OF ASSURANCES

The Board of Education of the Plainview-Old Bethpage Central School District as a part of a long-standing commitment to excellence in education for all students, supports the provision of special education and related services for students with disabilities under the auspices of the Committee on Special Education and the Committee on Preschool Special Education.

In full support of State and Federal laws pertaining to students with disabilities, it is the intent of this Board of Education to assure that the educational needs of special education students are met. To this end, and in full compliance with the Regulations of the Commissioner of Education, the Board has reviewed the District Plan for Special Education.

By action of the Board of Education in a regularly scheduled meeting, the Board has adopted the Special Education District Plan.

Adopted: \_\_\_\_\_  
President, Board of Education

\_\_\_\_\_  
Date

### **Mission Statement**

The mission of the Plainview-Old Bethpage Central School District is to prepare civic-minded students to productively participate in a diverse and ever-changing world as self-directed, confident, curious, respectful, and empathetic learners.

### **Vision**

We do this by providing the necessary resources and support to:

- create a safe, inclusive environment where all students feel a sense of belonging;
- meet each student's social, emotional, academic, and physical needs; and,
- engage our learning partners in active collaboration and communication.

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**SECTION 1**

**INTRODUCTION**

## **SPECIAL EDUCATION PHILOSOPHY & GOALS**

The Plainview-Old Bethpage Central School District Board of Education subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. Recognizing its responsibilities towards students with disabilities, the Plainview-Old Bethpage Central School District Board of Education has adopted the following statement of philosophy of special education which is the cornerstone of its programs.

- To the extent dictated by the child's disability, the student will be educated within the local school wherever possible.
- The district is committed to the concept of the least restrictive environment which allows for maximum contact and participation with non-disabled peers.
- Where special education services are provided within or out of district, the services will be limited to those specifically dictated by the nature and need of the disability.
- The goal of special education in Plainview-Old Bethpage Central School District is to provide each child with individualized instruction which will allow the student to compensate for his or her disability, to overcome the disability where possible, and to maximize the student's functioning toward realization of full potential.
- This District recognizes that in the development of all human beings, there are personal obstacles to be overcome as growth evolves. This is true for all students. Students with disabilities will be seen by the general education staff as having particular obstacles to overcome and shall be helped accordingly.
- This District is committed to help develop constructive attitudes, respect and understanding towards individuals with disabilities in order to promote independence of functioning to the greatest possible degree.
- In recognition of the necessity for parental support and involvement in the education of each child with a disability, total, open and fully available communication with parents is seen as desirable and essential.

The Board of Education recognizes that an essential aspect of a successful special education program is the orientation and in-service training of the faculty. Professional development for all personnel who work with students with disabilities is necessary to assure that they have the skills and knowledge necessary to meet the unique needs of these students.

It is the goal of the district to integrate into the school curriculum a program to elicit understanding and accepting of individual differences. This will foster the acceptance of people with disabilities.

The Board authorizes the Superintendent to provide in-service education for staff regarding the concept of the least restrictive environment.

## **GENERAL BOARD OF EDUCATION POLICIES**

*The 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 administrative practices and procedures:*

1. To ensure that students with disabilities have the opportunity to participate in school district programs to the maximum extent appropriate to the needs of each student, including nonacademic and extra curriculum programs and activities, which are available to all other students in the public schools of the district. 4321

To provide a free appropriate education in the least restrictive environment for resident children between the ages of three (3) and twenty-one (21) or until a regular high school diploma has been achieved by the student, whichever shall occur first. 4321.1

2. To ensure that each preschool student with a disability residing in the district has the opportunity to participate in preschool programs, including timely evaluation and placement. 4321.13

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 and will report annually to the Board of Education regarding the status of each student. 4321

3. To appoint and train appropriately qualified personnel, including the members and chairpersons of the Committee on Special Education and the Committee on Preschool Special Education. 4321
4. To implement the provisions of Section 200.6(a) of the Commissioners Regulations and to provide special services or programs, 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. 4321
5. To ensure that parents have received and understand the request for consent for evaluation of a preschool student.4321.13
6. To implement school-wide approaches, which may include a response to intervention process, and pre-referral interventions in order to remediate a student's performance prior to referral to special education. 4321.2
7. To ensure the establishment of plans and policies for the appropriate declassification of students with disabilities. 4321.9
8. To ensure the selection and board appointment of an impartial hearing office consistent with Regulations. 4321.8

9. To ensure that all instructional materials to be used in the schools in the district are available in a usable alternative format for each student with a disability in accordance with the student's education needs and course selections at the same time that such materials are available to nondisabled students. 4321.6
10. To ensure that personnel responsible for implementing or assisting in the implementation of a student's IEP receive or are provided access to a copy of the IEP for review prior to its implementation and are informed of their responsibility to implement the recommendations of the IEP. 4321.15
11. To ensure that measurable steps are taken to recruit, hire, train and retain highly qualified personnel to provide special education programs and services. 4321.14
12. To ensure the establishment of guidelines for the provision of appropriate accommodations necessary to ensure the academic achievement and functional performance of the student in the administration of district-wide assessments. 4321.7
13. To ensure that universal design principles be used, to the extent feasible in developing and administering any district-wide assessment programs. 4321.11  
  
To ensure that adequate and appropriate space is made available to meet the needs of preschool and school age students with disabilities. 4321.3  
  
To ensure that students who reside in the district have received the protection of all other applicable State and Federal laws and regulations. 4321
14. To ensure the confidentiality of personally identifiable data, information or records pertaining to a student with a disability. Such personally identifiable information will not be disclosed except in accordance with the Regulations. 4321.5
15. To ensure that the school district publicly reports on revisions to its policies, procedures to/or practices upon with funding by the Department that the district has inappropriate policies, procedures or practices resulting in significant disproportionality by race/ethnicity in the suspension, identification classification to/or placement of students with disabilities. 4321.11

## **IMPLEMENTATION OF SCHOOL-WIDE APPROACHES AND PRE-REFERRAL INTERVENTIONS**

In accordance with the IDEA and Part 200 of the Commissioner's Regulations, the 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 (AIS). These services must be afforded to all students who do not meet the minimum designated standards on state assessments, and to English Language Learners (ELL) students who do not achieve performance standards. 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 level 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 meeting graduation requirements will be considered prior to making referrals to the CSE. These approaches may also include but are not limited to extra teacher support, counseling support, and computer-assisted programs. The principal shall notify each student's parents whenever AIS are provided. These school-wide approaches shall serve as pre-referral interventions prior to consideration of special education programs through the CSE.

### **Response to Intervention**

In accordance with Part 100.2(ii), the district's process to determine if a student responds to scientific, research-based instruction shall include the following minimum requirements:

- appropriate instruction delivered to all students in the general education class by qualified personnel;
  - appropriate instruction in reading shall mean scientific research-based reading programs that include explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;
- screenings applied to all students in the class to identify those students who are not making academic progress at expected rates;
- instruction matched to student need with increasingly intensive levels of targeted intervention and instruction for students who do not make satisfactory progress in their levels of performance and/or in their rate of learning to meet age or grade level standards;
- repeated assessments of student achievement which should include curriculum measures to determine if interventions are resulting in student progress toward age or grade level standards;

- the application of information about the student's response to intervention to make educational decisions about changes in goals, instruction and/or services and the decision to make a referral for special education programs and/or services; and
- written notification to the parents when the student requires an intervention beyond that provided to all students in the general education classroom that provides information about:
  - the amount and nature of student performance data that will be collected and the general education services that will be provided
  - strategies for increasing the student's rate of learning; and
  - the parents' right to request an evaluation for special education programs and/or services.
- The district shall select and define the specific structure and components of the response to intervention program, including, but not limited to, the criteria for determining the levels of intervention to be provided to students, the types of interventions, the amount and nature of student performance data to be collected and the manner and frequency for progress monitoring.
- The district shall take appropriate steps to ensure that staff have the knowledge and skills necessary to implement a response to intervention program and that such program is implemented consistent with paragraph (2) of this subdivision.

## 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 special 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 special 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 students with disabilities.

- Such instruction includes but is not limited to that conducted in classrooms, homes, hospitals, institutions and in other settings.
- Such instruction includes specially designed instruction in physical education, including adapted physical education.

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

The term ***special services or programs*** may include:

- Special classes, integrated co-teaching model, resource room, related services, consultant teacher services and home instruction.
- Contracts with other districts for special services or programs.

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

- Contracts for special services or programs provided by Boards of Cooperative Educational Services (BOCES).
- Appointment by the Commissioner to a state or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of New York State law.
- Contracts with private non-residential schools, which have been approved by the Commissioner and which are within the state.
- Contracts with private non-residential schools, which have been approved by the Commissioner and which are outside of the state.
- Contracts with private residential schools, which have been approved by the Commissioner and which are within the state.
- Contracts with private residential schools, which have been approved by the Commissioner and which are outside of the state.
- 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 State Department of Education.
- 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 services, medical services, nursing services, parent counseling and training, school nurse services, school social work, assistive technology services, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services and includes the early identification and assessment of disabling conditions in students.
- Contracts for residential or non-residential placements with a special act school district listed in chapter five hundred sixty-six of the laws of Nineteen hundred sixty-seven.
- Contracts with New York State approved and funded schools (Article 89).

**Additional Definitions:**

- 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 local high school or Regents diploma. 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.

- 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 PROGRAMS AND SERVICES: OVERVIEW**

In accordance with Section 200.6 of the Regulations of the Commissioner of Education, the 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.

### **SCHOOL CALENDAR**

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 expect that, during the months of July and August, school day means every day except Saturday, Sunday and legal holidays. Days means calendars days 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 District provides a wide continuum of services, ranging from placement in residential settings to placement in general education 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*** means that the placement of students with disabilities in special classes, separate schools or other removal from the regular educational environment occurs ***only*** when the nature or severity of the disability is such that even with 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, 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 (LRE) REQUIREMENTS**

- The student will receive a comprehensive, nonbiased, individual evaluation in his or her 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 or guardian and teacher and the student, when appropriate. The Committee will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. IDEA requires that at least one of the student's regular education teachers must be a member of the Committee (if the student is, or may be, participating in the regular 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 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 student's disability affects involvement and progress in the general curriculum; or for preschool students, how the disability affects the child's participation in appropriate activities.
- Measurable annual goals, including benchmarks or short-term objectives, if appropriate, 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 those 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.

**PROVISION OF APPROPRIATE SPECIAL EDUCATION SERVICES TO ENABLE  
INVOLVEMENT AND PROGRESS IN THE GENERAL EDUCATION  
CURRICULUM**

All students with disabilities who reside in the district shall be provided with an appropriate Individual Education Program (IEP) that meets his or her 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.

In keeping with this policy, the CSE will consider general education or placement in the least restrictive environment 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 Regents classes, and special education classes, integrated co-teaching 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. These services shall be in addition to the special 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 New York State Alternate Assessment (NYSAA) program. If the student has the potential to achieve a regular 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.

**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), Subcommittees 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 1989/90 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 Board of Education on the adequacy and status of programs, services and facilities made available to school-age students with disabilities by the school district, and, for preschool students, by public and private agencies within the County of Nassau;
- 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 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.

### **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 insure that services are identified to allow the student to be involved in and progress in the general education curriculum. Specific administrative practices for training these members, including general education teachers and parents, to carry out the provisions of Part 200 include:

- arranging for attendance at meetings regarding CSE/CPSE issues;
- conducting district-based training on a regular basis;
- 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;
- utilizing BOCES as a training resource; and utilizing the district's 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 general education 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.

Staff meetings, in-service courses, Superintendent's Conference Day, as well as individual meetings between special and general education teachers, will be held in an effort to maintain professional development.

**SECTION 2**

**COMMITTEE ON  
PRESCHOOL SPECIAL  
EDUCATION**

## **COMMITTEE ON PRESCHOOL SPECIAL 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:

- the parents of the preschool child;
- not less than one regular education teacher of the child if the child is, or may be, participating in the regular education environment;
- Not less than one special education teacher or special education service provider of the child;
- the CPSE chairperson who is a representative of the district qualified to provide, or supervise the provision of specially-designed instruction to meet the unique needs of students with disabilities who is knowledgeable about the general curriculum and about the availability of preschool special education programs and services and other resources of the school district municipality;
- the additional parent member of a preschool or elementary school-age child with a disability who resides in the district or neighboring district; the parent member may be the parent of a student who has been declassified within a period not to exceed five years, if specifically requested in writing by the parent of the student at least 72 hours prior to the meeting;
- an individual who can interpret the instructional implications of evaluation results, provided that the 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 to fulfill this roll on the committee;
- 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 CPSE.
- for a child in transition from early intervention programs and services, at the request of the parent, the appropriately professional designated by the agency that has been charged with the responsibility for the pre-school child.
- an appropriately licensed or certified professional from the municipality is invited but not required for a quorum.

Consensus is the preferred decision-making process. Parents of the student being reviewed and other knowledgeable persons are encouraged to share information, outside evaluations and reports with the Committee. Written notice of CPSE meetings is provided to parents at least five days in advance of the meeting date. Meetings of the CPSE are held in the PPS Office as needed to review referrals throughout the school year and during the summer months.

### **Excusal of Committee Member**

A member of the CPSE, other than the student's, parent may be excused from attending a meeting, in whole or in part, when the meeting involves a modification or discussion of their area of the curriculum or related services if:

- the parents and the school district agree in writing to the excusal, and the excused member submits to the parent and the rest of the CPSE, written input into the development of the student's IEP, and in particular written input with respect to their area of curriculum or related services prior to the meeting.
- A parent retains the right to request and/or agree with the school district to excuse a CPSE member at any time including where:
  - the member is unable to attend because of an emergency or unavoidable scheduling conflict and the request to excuse a member or to agree that a member's attendance at a meeting is not necessary, and the written input into
  - the development of the IEP from the member proposed to be excused must be provided not less than five calendar days prior to the meeting, in order to afford
  - the parent a reasonable time to review and consider the request.
- Requests for excusals do not apply to the parents of the student or the appointee of the municipality in the case of a Committee on Preschool Special Education.

## **DEFINITION OF TERMS**

### **PRESCHOOL STUDENT WITH A DISABILITY**

Refers to a preschool student who has been identified by the Committee on Preschool Special Education (CPSE) who is eligible to receive preschool programs and services, and is not entitled to attend the public schools of the district. 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, social-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 deviation 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 as Autism, Deaf, Deaf-Blind, Hearing Impairment, Orthopedic Impairment, Other Health Impairment, Traumatic Brain Injury, or Visual Impairment, including blindness.

### **FIRST ELIGIBLE FOR SERVICES**

Children who turn three between January 1<sup>st</sup> and June 30<sup>th</sup> are first age eligible for preschool special education services on January 2<sup>nd</sup> of the year they turn three. Children who turn three between July 1<sup>st</sup> and December 31<sup>st</sup> are first age eligible for preschool special education services on July 1<sup>st</sup> of the year they turn three. In order for a child to continue to receive early intervention services past his/her third birthday, the CPSE determines that the child meets the eligibility criteria to receive preschool special education services. This must occur before your child's third birthday. If the CPSE determines that the child is not eligible for preschool special education services, early intervention services will end the day before his/her third birthday. If determined eligible for services by the CPSE, children who turn three between January 1<sup>st</sup> and August 31<sup>st</sup> may remain in early intervention until August 31<sup>st</sup> of the year they turn three. If determined eligible for services by the CPSE, children who turn three between September 1<sup>st</sup> and December 31<sup>st</sup> may remain in early intervention until December 31<sup>st</sup> of the year they turn three.

### **CPSE PROCEDURES**

#### **REFERRAL**

The Committee on Preschool Special Education (CPSE) is responsible for arranging 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 school district. **The evaluation process begins when a written request for evaluation is made by either:**

- the child's parent or person in parental relationship

- 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 students
- 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

The referral can be made at any time during the school year. It should specify the extent to which the preschool student has received any services prior to referral. When the CPSE chairperson receives a referral, the chairperson shall immediately notify the parent that a referral has been received and shall request consent for evaluation of the preschool student. 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 initial individual evaluation shall be completed within 60 days of receipt, unless extended by mutual agreement of the student's parents and the CPSE.

### **EVALUATION AND RECOMMENDATION**

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:

- a physical examination;
- an individual psychological examination, except when a school psychologist determines after an assessment that further evaluation is unnecessary;
- an observation;
- 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.
- A functional behavior assessment for a student whose behavior impedes his or her learning or that of others

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. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological 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 at a site and time mutually convenient to the members of the Committee and the preschool parent. The parents will be provided with a copy of the summary reports prior to the meeting. The results of the evaluation will be provided to the parent in their native language or other mode of communication used by the parent, unless it is not feasible to do so.

Reasonable measures will be made to ensure that the parent attends the meeting. This means:

- A written notice is sent to the parent at least five days prior to advising them of the meeting. A parent may elect to receive the notice of meetings by an electronic mail (email) communication if the school district makes this option available.
- Prior notice means written statements developed in accordance with Section 200.5(a) of the Part 200 Commissioner's Regulations, and provided to the parents of a student with a disability 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 additional attempt is made to notify the parents. This may mean additional written notice or a telephone call.
- The parent and the school district may agree to use alternative means of meeting participation, such as videoconferences and conference telephone calls.

The CPSE submits a recommendation to the Board of Education and to the parent of the preschool student within thirty (30) school days of the date of the receipt of consent. If the Committee determines the student is ineligible for the special education, written notification will indicate the reasons for the finding. If the Committee determines that a student has a disability, an IEP (Individualized Education Program) 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

annual 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. If, for any reasons, 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 that the parent does not provide consent for placement, no further action will be taken by the CPSE until such consent is obtained.

### **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 parental consent but if the parent disagrees with the recommendation of the Board, 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 Board approval. If the Board of Education disagrees with the Committee's recommendation, it may remand the recommendation to 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. This review considers the educational progress and achievement, the student's ability to participate in instructional programs in regular education and continued eligibility for special education services. Parents will receive a written notice, at least five (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 attends the meeting. This notice must also inform the parents that they may invite other persons to attend the meeting, who have knowledge or special expertise regarding the student.

### **AMENDMENT TO CPSE MEETING AFTER THE ANNUAL REVIEW**

After an IEP has been developed at the annual review meeting, a parent and the school district may agree not to convene a meeting of the CPSE to make changes to the student's IEP, and instead may develop a written document to amend the student's IEP under the following circumstances:

- the parent makes a request to the school district for an amendment to the IEP and
- the parent and the district agree in writing; or

- the school district provides the parent with a written proposal to amend a provision or provisions of the IEP that;
  - is conveyed in language understandable to the parent, and
  - informs and allows the parent the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes.
- The parent must be provided Prior Written Notice (notice of recommendation) of the changes to the IEP.
- The parent must also receive, either a:
  - rewritten IEP; or
  - document that amends or modifies the IEP (or, upon parent request, a revised copy of the entire IEP with the amendments incorporated).

Amendments made to an IEP without a meeting do not affect the requirement that the CSE must review the IEP at the annual meeting, or more often if necessary.

### **WITHDRAWAL OF REFERRAL**

Written consent of the parent or 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 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 decides that the referral is not warranted, the referral shall be withdrawn.

### **PROGRAM RECOMMENDATIONS**

The CPSE must consider the appropriateness of services to meet the student's needs in the least restrictive environment in the following order:

- related services only
- special education itinerant services only
- related services in combination with special education itinerant services
- special class in an integrated setting Half Day, 2.5 hours; Full Day 3.5 hours
- special class - Half Day, 2.5 hours; Full Day 3.5 hours
- residential

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.

The Committee shall first consider providing special education services in a setting where age-appropriate peers without disabilities are found.

### **RELATED SERVICES**

Related Services can be provided in a variety of settings:

- Clinician's office
- preschool
- special school
- daycare
- children receive their related services within the context of the school day unless otherwise indicated on the IEP
- Related services may be provided individually or in a group of no more than 5 students

### **SPECIAL EDUCATION ITINERANT SERVICES**

Special Education Itinerant Services are 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:

- an approved or licensed pre-kindergarten
- the work site of the provider
- a student's home
- a hospital
- a state facility
- a childcare location

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

- **Direct Services**: Specialized individual or group instruction to a preschool student to aid the student from benefiting 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. Related services may be provided, in addition to SEIT services, in accordance with the student's IEP.

### **SPECIAL CLASS IN AN INTEGRATED SETTING**

SCIS may be a class that has a special education teacher and at least one Supplementary School Personnel in a classroom made up of no more that twelve preschool students with and without disabilities or may be a class that is made up of no more than twelve preschool students with disabilities staffed by a special education teacher and at least one Supplementary School Personnel that is housed in the same physical space as a class of preschool students without disabilities taught by a non-special education teacher.

### **SPECIAL CLASS (half or full day)**

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

- 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.

### **RESIDENTIAL SPECIAL EDUCATION PROGRAMS AND SERVICES**

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

### **EXTENDED SCHOOL YEAR SERVICES**

12-month special services and/or programs shall be provided to eligible preschool students with disabilities consistent with their individual needs, as specified in their individualized education programs. Preschool students with disabilities may be

considered for such special services and/or programs in accordance with their need to prevent substantial regression if they are:

- Preschool students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention; (includes preschoolers in 6:1:1 ratio)
- Preschool students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment; or
- Preschool students whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment in the home; or
- Preschool students whose needs are so severe that they can be met only in a seven-day residential program; or
- Preschool students, not described above, whose disabilities are severe enough to exhibit the need for a structured learning environment of 12 months duration to prevent substantial regression as determined by the CPSE.

A list of all New York State Education Department approved pre-school special education programs is available on the NYSED website:

<http://www.p12.nysed.gov/specialed/preschool/approved-preschool-special-education-program-sites.html>

**SECTION 3**

**COMMITTEE ON  
SPECIAL EDUCATION**

## **COMMITTEE ON SPECIAL EDUCATION**

### **MEMBERSHIP**

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

- the parent or person in parental relationship to the student;
- not less than one regular education teacher of the student if the student is, or may be, participating in the regular education environment;
- not less than one special education teacher or special education service provider of the student;
- a school psychologist;
- the CSE chairperson who is a representative of the district qualified to provide, or supervise the provision of, specially-designed instruction to meet the unique needs of students with disabilities, who is knowledgeable about the general curriculum and about the availability of the resources of the local educational agency;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the regular education teacher, special education teacher or provider, the school psychologist, or district representative described above;
- the 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;
- an additional parent member of a student with a disability who resides in the district or a neighboring school district, provided that parent, student or district makes this request in writing 72 hours prior to the meeting; the 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.
- 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.
- whenever appropriate, the student with a disability.

Consensus is the preferred decision-making process. Parents of the student being reviewed and other knowledgeable persons are encouraged to share information, outside evaluations and reports with the Committee.

Written notice of meetings is provided to the parents at least five days in advance of the meeting date. Meetings of the CSE are held in the Administration Building and in the buildings as needed throughout the calendar year.

### **EXCUSAL OF A COMMITTEE MEMBER**

A member of a CSE other than the student's parent may be excused from attending a meeting, in whole or in part, when the meeting involves a modification or discussion of their area of the curriculum or related services if:

- the parents and the school district agree in writing to the excusal, and
- the excused member submits to the parent and the rest of the CSE written input into the development of the student's IEP and, in particular, written input with respect to their area of curriculum or related services, prior to the meeting

Requests for excusals of a member of a committee and other written input will be provided not less than five days prior to the meeting date, in order to afford the parent a reasonable time to review and consider the request.

A parent retains the right to request and/or agree with the school district to excuse a CSE or subcommittee member at any time including where:

- the member is unable to attend because of an emergency or unavoidable scheduling conflict, and
- the school district submits the written input for parental review and consideration within a reasonable time prior to the meeting and prior to obtaining written parental consent for the excusal.

Written notice of meetings is provided to the parents at least five days in advance of the meeting date.

### **DEFINITION: Student with a Disability**

The term student with a disability includes the following classifications:

- (1) *Autism* means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age 3, which 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 educational performance is adversely affected primarily because the student has an emotional disturbance as defined in paragraph 4. 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.

- (2) *Deafness* means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance.
- (3) *Deaf-blindness* means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.
- (4) *Emotional disturbance* 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:
  - (i) an inability to learn that cannot be explained by intellectual sensory, or health factors;
  - (ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - (iii) inappropriate types of behavior or feelings under normal circumstances;
  - (iv) a general pervasive mood of unhappiness or depression; or
  - (v) a tendency to develop physical symptoms or fears associated with personal or school problems.

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

- (5) *Hearing impairment* means impairment in hearing, whether permanent or fluctuation, which adversely affects the child's educational performance but that is not included under the definition of deafness in this section.
- (6) *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. This term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.
- (7) *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.

(8) *Multiple disabilities* means concomitant impairments (such as intellectual disability, blindness, intellectual disability orthopedic impairments, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.

(9) *Orthopedic 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, and fractures or burns which cause contractures).

(10) *Other health-impairment* means having 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, epilepsy, lead poisoning, leukemia, diabetes, attention deficit disorder or attention deficit hyperactivity disorder or Tourette syndrome, which adversely affects a student's educational performance.

(11) *Speech or language impairment* means a communication disorder, such as stuttering, impaired articulation, a language impairment or a voice impairment that adversely affects a student's educational performance.

(12) *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, anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries from certain medical conditions resulting in mild, moderate or 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.

(13) *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 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 students suspected of having a disability, identifying a disability or determining that no disability exists, and recommending placement and type of special education programs and/or services within sixty (60) 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 Committee on Special Education or to the building administrator of the school which the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs or 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 with instruction as described in Section 100.2(ii).

The referral form to the CSE used by the district staff will describe, in writing, intervention services, programs used to remediate the student's performance prior to services, or instructional methodologies, including any supplementary aids or support services provided, or the reasons why no such attempt were made. The principal and/or building level team shall maintain a record of pre-referral interventions implemented for each student. Each referral shall be reviewed to determine its appropriateness and whether pre-referral interventions have been adequately utilized, and if further interventions are deemed necessary.

A referral for initial evaluations may be made by:

- Parent or Legal Guardian
- School District

A request for a referral may be made by:

- Professional staff members of district student resides in or private school student attends
- Physician
- Judicial Officer
- Commissioner or designee of public agency responsible for welfare, health, or education of children
- Student – age 18 or emancipated minor

All new entrants to the district are screened at the time of enrollment and such screening, if it indicates a possible disability, can lead to a CSE referral. The referral must be written and dated.

Upon a student's enrollment in our schools parents will be notified of their rights regarding referral and evaluation of their child for the purposes of special education

services or programs. This information is also in the District Calendar and on the District Website.

Except for self-referrals and referrals by parents or judicial officers, the referral must state the reasons for the referral and include any test results, records or reports upon which the referral is based. It must also describe efforts made by school and parent to resolve the difficulties leading to referral or to meet the needs of the student in the general classroom setting, including intervention services, programs or instructional methodologies, used to remediate the student's performance prior to the referral. If a referral is received by the building administrator, it must be forwarded to the CSE Chairperson immediately. If a referral is received by the CSE Chairperson, a copy will be forwarded to the building administrator within five business days of its receipt.

The Committee will notify the parent or persons in parental relationship to the student that a referral for an evaluation has been received and will request consent for the evaluation. The parent will be provided with information regarding the evaluation, the procedural safeguards notice which includes a listing of free or low-cost legal and other relevant services in the area, sources to obtain assistance in understanding the referral and evaluation process, and a copy of A Parent's Guide to Special Education. Translations are provided to assist parents as needed.

### **WITHDRAWAL OF REFERRAL**

Within ten (10) business days following receipt of CSE referral or copy of a referral, the building principal may decide to meet with the parent/guardian and/or student to discuss educational services presently being offered and to determine whether the student would benefit from additional general education support services as an alternate to special education, including the provision of educationally related support services, speech/language services, remedial instruction, and academic intervention services. The professional staff member who made the referral should also attend this meeting. If at the meeting, the parent or person in parental relationship and the building administrator agree in writing that, with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide the chairperson of the Committee on Special Education, the person who made the referral if a professional staff member of the district, the parent or person in parental relationship to the student, and the student, if appropriate, with copies of the agreement. All such agreements about withdrawal of a CSE referral must be in writing and must specify the alternative services to resolve the identified learning difficulty of the student and provide the opportunity for a follow-up conference within an agreed period of time to review the student's progress. A copy of the agreement becomes a part of the student's cumulative educational record. A copy of the agreement must be in the native language of the parent or person in parental relationship.

If the referral to the CSE is not withdrawn by agreement, and the parent/guardian does not consent to the evaluation within thirty (30) days of the date of receipt of referral, the Chairperson of the CSE shall document attempts made by the Chairperson or other representatives of the Committee to obtain parental consent and shall notify the Board of Education that they may utilize the due process procedures to permit the district to conduct an evaluation of the student without consent of the parent.

## **EVALUATION AND RECOMMENDATION**

The initial evaluation shall be completed within 60 days of receipt of consent unless extended by mutual agreement of the student's parents and the CSE. The initial evaluation consists of procedures to determine whether a student is a student with a disability and to determine the educational needs of such a student. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education. The evaluation will include a variety of assessment tools and strategies, including information provided by the parent to gather relevant, functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability and the content of the student's individualized education program, including information related to enabling the student to participate and progress in the general education curriculum.

The individual evaluation of the referred student must include, at no cost to the parent, at least:

- a physical examination or health record;
- an individual psychological examination, except when a school psychologist determines after an assessment of a school age student that further evaluation is unnecessary. Whenever a psychologist determines that a psychological evaluation is unnecessary, the psychologist will prepare a written report of such assessment, including a statement of the reasons the evaluation is unnecessary, which shall be reviewed by the committee;
- an observation of the student in the student's learning environment (including the regular classroom setting) or, in the case of a student of less than school-age or out of school, an environment appropriate for a student of that age to document the student's academic performance and behavior in the areas of difficulty;
- a social history;
- other appropriate assessment or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.

The district will ensure that:

- assessments and other evaluation materials used to assess a student:
  - (a) are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to do so provide or administer;

(b) are used for purposes for which the assessments or measures are valid and reliable;

(c) are administered by trained personnel in accordance with the instruction provided by those who developed such assessments; and

(d) are selected and administered so as not to be discriminatory on a racial or cultural basis;

- assessment and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a general intelligence quotient;
- assessments are selected and administered to ensure that, when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, except where those skills are factors which the test purports to measure;
- materials and procedures used to assess a student with limited English proficiency be selected and administered to ensure that they measure the extent to which the student has a disability or needs special education, rather than measure the student's English language skills;
- no single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student;
- the evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or the specialist with certification or knowledge in the area of the suspected disability;
- the evaluation is sufficiently comprehensive to identify all of the student's special education needs, whether or not commonly linked to the disability category in which the student has been identified;
- technically sound instruments are used that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors;
- assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student;
- the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities;

- students age twelve (12) and those referred to special education for the first time who are age twelve (12) and over, shall receive an assessment that includes a review of school records and total assessments, and parent and student interview to determine vocational skills, aptitude and interests;
- the results of the evaluation are provided to parents or persons in parental relationships in their native language or mode of communication unless it is clearly not feasible to do so;
- assessments of students with disabilities who transfer from one school district in the same academic year are coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible to ensure prompt completion of full evaluations; and
- no student shall be required to obtain a prescription for a drug or other substance as a condition of receiving an evaluation.

Existing evaluation data on the student will be reviewed, including evaluations and information provided by the child's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observation.

The CSE will arrange for specialized evaluations where necessary, using appropriate resources outside of the district. These assessments may include, but are not limited to, bilingual evaluations, psychiatric neurological examinations, neuropsychological evaluations, audiological evaluations, visual evaluations, vocational evaluations and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time. The CSE shall maintain a list of appropriate resources and certified professionals for this purpose.

When an evaluation is completed, a CSE meeting is scheduled. Reasonable measures will be taken to ensure that the parent attends the meeting. This means:

- a written notice will be sent to parents at least five days prior advising them of the meeting. This notice will inform the parents of the purpose, date, time and location of the meeting and the name and title of those persons who will be in attendance at the meeting. Meeting notices will be on a form prescribed by the Commissioner. The parent may elect to receive the notice of meetings by electronic (email) communication if the school district makes this option available.
- the meeting will be scheduled at a mutually agreed upon time and place and in a location that is physically accessible to parent.
- at least one additional attempt will be made to notify the parents. This may mean additional written notice or a telephone call.
- the parent and the school district may agree to use alternative means of meeting participation, such as teleconferences and conference telephone calls.

- the school district may conduct a CSE meeting without a parent in attendance if the school is unable to convince the parents that they should attend. In this case, the school must have a detailed record of its attempts, and the results of those attempts to arrange a mutually agreed on time and place. A decision may be made by the Committee on Special Education without the involvement of the parents, if the school is unable to obtain the parents' participation in the decision. In this case, the school must have a record of its attempt to ensure their involvement. The district will ensure that the parent understands the proceedings at the meetings of the CSE, including arranging for an interpreter for parents with deafness or whose native language is other than English.

### **Eligibility Determination**

When an evaluation is completed, the Committee, including the parent and, if appropriate, the student, meets to review the evaluation information to determine eligibility for special education and, if appropriate, develop an Individualized Education Program (IEP). The CSE will consider evaluation information including evaluations provided by the parent. The CSE must ensure that all general education resources including Academic Intervention Service, has been considered prior to determining that the student should receive special education services. In making a determination of eligibility for special education and related services, a student shall not be identified as a child with a disability if the determinant factor is lack of appropriate instruction in reading including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies, lack of instruction in math or limited English proficiency. In determining whether a student has a learning disability, the district may use a process that determines if the student responds to scientific, research-based intervention as part of the evaluation procedures. The district is not required to consider whether a student has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation or mathematical reasoning. A student with a disability remains eligible to receive special education services even if the student is advancing from grade to grade.

The CSE will ensure that parents receive and understand all evaluation reports and documentation of eligibility in their native language, including the results of required evaluations when the student is determined no longer to be eligible for special education. Whenever feasible, the evaluation results are shared with the parents before any meeting to discuss the identification, evaluation or educational placement of the student. Consensus is the preferred decision making process.

When evaluations are conducted for the purpose of determining a student's eligibility or continuing eligibility for special education, the CSE must give a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent. The results of the evaluation will be provided to the parent in their native language or other mode of communication.

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, a copy of the evaluation report and the documentation of determination for ineligibility.
- The Committee will provide a copy of the recommendation and appropriate evaluation information to the building administrator for consideration of educationally related support services to address student's needs.
- The Committee will provide the recommendation to the Board of Education.

If the student has been receiving special education services, but it is determined by the Committee on Special Education that the student **no longer needs special education** services and can be placed in a regular education program on a full-time 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, the frequency of provision of the services, provided that these services shall not continue for more than one year after the student enters the full-time regular 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.

### **Notice of Recommendation**

After the determination of eligibility or ineligibility by the CSE, a notice of this recommendation is provided to parents. This notice of recommendation, also known as prior written notice, must be given to the parents of a student with a disability a reasonable time before the school district proposes to, or refuses to, initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. Prior written notice issued will be on a form prescribed by the commissioner.

If the Committee determines that the student is eligible for special education, an IEP (Individualized Education Program) is prepared. IEPs developed will be on a form prescribed by the commissioner. In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent evaluation, the student's strengths, the concerns of the parents, the academic, developmental and functional needs of the student including, as appropriate, the results of the student's

performance on any general State or district-wide tests, and other factors unique to the student's disability.

The IEP indicates the classification of the disability, the recommended placement, class size, and includes a statement of:

- the student's present level of academic achievement, functional performance and individual needs in academic, social, physical and management areas, including how the disability affects the child's involvement and progress in the general education curriculum;
- each annual goal shall include the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal during the period beginning with placement and ending with the next scheduled review by the committee;
- the IEP shall identify when periodic reports on the progress the student is making towards the annual goals, such as through the use of quarterly or other periodic reports that are concurrent with the issuance of report cards, will be provided to the student's parents;
- for a student who takes a New York State Alternate Assessment and for each preschool student with a disability, the IEP will include a description of the short-term instructional objectives and/or benchmarks that are the measurable intermediate steps between the student's present level of performance and the measurable annual goal;
- special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for the child to advance appropriately toward attaining annual goals, to be involved and progress in general education curriculum, and to be educated and participate in activities with other students with and without disabilities;
- the recommended program and services shall, to the extent practicable, be based on peer-reviewed research;
- the general education classes in which the student will receive consultant teacher services;
- a statement of support for school personnel on behalf of the student;
- the extent to which the student's parents will receive parent counseling and training, when appropriate;
- any assistive technology devices or services needed for the student to benefit from education, including the use of the devices in the student's home or in other settings;
- the extent, if any, to which the student will **NOT** participate with non-disabled students in the general class and in other activities;

- if a student is not participating in a regular physical education program, the extent to which the student will participate in specially designed instruction in physical education, including adapted physical education;
- if the student will participate in an alternate assessment on a particular State or district-wide assessment of student achievement, the IEP shall provide a statement of why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student;
- a statement of any individual testing accommodations to be used consistently for the student in the recommended educational program and in the administration of district-wide assessments of student achievement, and in accordance with department policy. State assessments of student achievement that are necessary to measure academic achievement and functional performance of the student; and
- the projected date for the initiation of special education, related services and modifications, the anticipated frequency, location, and duration of those services and the projected date of review of the student's need for such services;

The IEP must also include:

- beginning no later than the first IEP to be in effect when the student is age 15 and at a younger age if determined appropriate, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's course of study, such as participation in advanced-placement courses or a vocational education program, and
- for those students beginning not later than the first IEP to be in effect when the student is age 15, and at a younger age, if determined appropriate, and updated annually, the IEP shall include:
  - under the student's present levels of performance, a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities;
  - appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;
  - a statement of the transition service needs of the student that focuses on the student's course of study, such as participation in advanced-placement courses or a vocational education program;
  - needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
  - a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of such services and

activities that promote from school to post-school opportunities, or both, before the student leaves the school setting.

In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent evaluation, the student's strengths, the concerns of the parents, the results of the student's performance on any general State or district-wide tests, and other factors unique to the student's disability.

At the beginning of each school year, the special education teacher or service provider meets with all general education teachers to discuss each student's IEP and review the modifications and adaptations that may need to be made for each student. Each regular education teacher is provided with a paper or electronic copy of the IEP and informed of his or her responsibility to implement the recommendation on the student's IEP. Teachers need to be aware of each student's area of disability, testing accommodations, special needs with regard to specialized equipment, such as enlarged print, taped textbooks, or use of a calculator, and any other special accommodations as stipulated in the IEP.

### **Consideration of Special Factors**

The CSE shall:

- (1) 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;
- (2) 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;
- (3) 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 skills, 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;
- (4) 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 of needs, including opportunities for direct instruction in the student's language and communication mode;
- (5) 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;

- (6) 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.

### **IEP IMPLEMENTATION, DISTRIBUTION AND PLACEMENT**

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, unless extended by mutual agreement of the student's parents and the CSE. 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 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 student with a disability has an IEP in effect at the beginning of each school year;
- 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, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP;
- each other provider responsible for assisting in the implementation of a student's IEP, has the opportunity to review a copy of the student's IEP prior to the implementation of the program, and has ongoing access to a copy of the IEP;
- each regular and special education teacher, related service provider, other service provider and other provider and support staff person has been informed, prior to the implementation of the IEP, of his or her specific responsibilities

related to implementing the student's IEP and the specific accommodations, program modifications, supports and/or services that must be provided for the student in accordance to the IEP; and

- a copy of the IEP is provided at no cost to the student's parents.

The 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 annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.

### **TRANSFER STUDENTS**

**Transfer within New York State:** In the case of a student with a disability who had an IEP that was in effect in NYS and who transfers from one school district and enrolls in our district within the same school year, the district shall provide the student with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents, until such time as the school district adopts the previously held IEP or develops, adopts and implements a new IEP.

**Transfer from outside New York State:** In the case of a student with a disability who transfers school districts within the same academic year, who enrolls in a new school district and who had an IEP that was in effect in another state, the district shall provide the student with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents, until such time as the school district conducts an evaluation, if determined to be necessary by the district, and develops a new IEP if appropriate.

### **ANNUAL REVIEW, REEVALUATION AND DECLASSIFICATION**

The Individualized Education Program (IEP) of each student with a disability shall be reviewed, and if appropriate, revised, periodically, but not less than annually to determine if the annual goals for the student are being achieved. Parents are notified by mail of the meeting; reasonable measures are taken to ensure that the parent attends the meeting. This review is conducted to determine the child's present levels of performance and educational needs, continued eligibility and need for special education service, and whether any modifications or additions to the special education and related service program are needed to enable the child to meet the measurable annual goals of the IEP.

The CSE held for the purpose of the annual review will consider: the strengths of the student; the concerns of the parents for enhancing the education of their child; the results of the most recent evaluations including, as appropriate, the results of any general State or district-wide assessments; the student's academic, developmental and functional needs; and the educational progress and achievement of the student and the student's ability to participate in instructional programs in regular education and in the least restrictive environment.

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 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 test or assessment as part of the re-evaluation.

As part of any re-evaluation, a review of existing evaluation data, including evaluations and information provided by the student's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observations, is conducted to determine what additional data, if any, is needed. This review shall not constitute a CPSE/CSE meeting. If no additional data is needed to determine whether the student continues to be a student with a disability, the parents are notified of the determination and the reasons for it. The parent is notified of the right to request an assessment and that the district is not required to conduct such an assessment unless requested by the student's parents.

The Committee on Special Education will arrange for an appropriate reevaluation of each student with a disability if the district determines that the educational or related service needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the student's parent or teacher requests a reevaluation, but not more frequently than once a year, unless that parent and representative of the school district appointed to the CSE agree otherwise. A reevaluation shall take place at least once every three years and will be conducted by a multidisciplinary team or group of persons, including at least one teacher or other specialists with knowledge in the area of the student's disability. The three-year reevaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education. The results of any reevaluations must be addressed by the committee on special education in a meeting to review and, as appropriate, revise the student's IEP. To the extent possible, the school district shall encourage the consolidation of reevaluation meetings and other committee on special education meetings for the student. 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.

### **AMENDMENTS TO IEP AFTER THE ANNUAL REVIEW**

Amendments to an IEP made after annual review may be made if the district and parent are in agreement by rewriting the IEP or by developing a written document to amend or modify the student's current IEP. The parents shall receive prior written notice of any changes to the IEP, as well as a revised copy of the entire IEP with the amendments incorporated.

## **CONTINUUM OF SERVICES**

### **COMMITTEE ON SPECIAL EDUCATION (CSE)**

#### **TRANSITIONAL SUPPORT SERVICES**

When specified in a student's Individualized Education Program, transitional support services are provided to a teacher on a temporary basis to aid in the provision of an appropriate educational program to the student with a disability who is transferring to a general education program or to a less restrictive program or service. These services are temporary and do not continue beyond one year. These services may be provided by the building psychologist, a special education teacher, a speech/language therapist, physical therapist, occupational therapist or other appropriate professional who understands the specific needs of the student with a disability.

#### **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 Educational 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).

Consultant Teacher Direct Services must be delivered in a general education class.

#### **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, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility service, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and appropriate support services and includes the early identification and assessment of disabling conditions in students. The term does not include a medical device that is surgically implanted, or the replacement of such device, 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.

## **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 (5) students, who are grouped according to their similarity of need.
- Students shall spend a minimum of three (3) 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 (20) at the elementary level and twenty-five (25) at the middle and high school levels.

## **INTEGRATED CO-TEACHING SERVICES**

Integrated co-teaching services means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students provided by both a general education teacher and a special education teacher.

- The maximum number of students with disabilities receiving integrated co-teaching services in a class shall be determined in accordance with the students' individual needs as recommended on their IEPs. The number of students with disabilities in such classes shall not exceed 12 students or more than 50% of the total enrollment, unless a variance is provided. This variance will be on a form prescribed by the Commissioner.
- A written notice will be submitted to the Commissioner to temporarily add one additional student with a disability to an integrated co-teaching class for the remainder of the school year, provided that at the start of classes in September, the class is in compliance and has no more than 12 students with disabilities. Written notice to the commissioner will be submitted on a form prescribed by the commissioner and will sufficiently demonstrate educational justification and consistency with providing an appropriate education for all children affected.
- School personnel assigned to each class shall minimally include a special education teacher and a general education teacher.
- Additional personnel, including supplementary school personnel, assigned to such classed by the district, may not serve as the special education teacher.

## **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 (16) years of age shall not exceed thirty-six (36) months. The maximum class size for those students whose special education needs consist primarily of the need for specialized instruction which can best be

accomplished in a setting that shall not exceed 15 students, except in special classes where students' management needs interfere with the instructional process; these classes will not exceed 12 students, with one or more supplementary school personnel assigned to each class during periods of instruction. The maximum size for special class containing students whose management needs are determined to be intensive, and requiring a significant degree of individual attention and intervention shall not exceed eight students, with one or more supplementary school personnel assigned to the class during instruction.

### **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 will be provided a minimum of five (5) hours per week;
- secondary school students will receive a minimum of ten (10) hours of instruction per week, preferably two (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 as recommended by the CSE.

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 recommendation shall:

- identify the declassification support services,
- indicate the projected date of initiation, and
- frequency and duration of such services, not to exceed one year.
- if, and for what period of time the student requires test accommodations and modifications to access the general education curriculum

Before determining that a student is no longer eligible to receive special education services, an evaluation needs to be conducted. 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 regular education. Such services may include psychological, social work, speech and language services, non-career counseling, or the assistance of an aide or consultant to the classroom teacher. Continuation of test accommodations upon declassification is not automatic. The CSE may determine that the test accommodations 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 reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regents diploma or exceeding the age eligibility for a free appropriate public education, but is required to provide the student with a summary of his or her academic achievement and functional performance, which includes recommendations on how to assist the student in meeting his or her post-secondary goals.

**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 recommendation 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 school days prior to, or after, such appropriate starting date, in which case the services shall be provided as soon as possible following development of the IEP, but no later the thirty (30) school days from the recommendation of the Committee and within 60 school days from receipt of consent to evaluate.

For CSE, placement shall be completed within 60 school days of receipt of consent to evaluate a student not previously identified as having a disability or within 60 school days of referral for review of a student with a disability. For placement in approved in-state private school placements, the Board shall arrange for such programs and services within 30 school 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 this statement and notice. The Committee shall then submit its revised recommendation to the Board of Education.

## **ADDITIONAL PROCEDURES FOR IDENTIFYING STUDENTS WITH** **LEARNING DISABILITY**

A student suspected of having a learning disability must receive an individual evaluation that includes a variety of assessment tools and strategies. The CSE may not rely on any single procedure as the sole criterion for determining whether a student has a learning disability. The individual evaluation shall be completed within 60 days of receipt of consent, unless extended by mutual written agreement of the student's parent and the CSE.

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

To ensure that underachievement in a student suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the CSE must, as part of the evaluation procedures, consider:

- data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in general education settings, delivered by qualified personnel; and
- date-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of students' progress during instruction, which was provided to the student's parents.

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

A student may be determined to have a learning disability if, when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve adequately for the student's age or meet State-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and/or mathematics problem solving; and the student either:

- does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the identified area
- exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development that is determined by the CSE to be relevant to the identification of a learning disability, using appropriate assessments; and
- the CSE determines that its findings under this paragraph are not primarily the result of a visual, hearing, or motor disability, mental retardation, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency.

## **Specific Documentation for the Eligibility Determination**

When determining eligibility for a student suspected of having a learning disability, the CSE shall prepare a written report containing a statement of:

- whether the student has a learning disability;
- the basis for making the determination, including an assurance that the determination has been made in accordance with regulations;
- the relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning;
- the educationally relevant medical findings, if any;
- whether the student:
  - does not achieve adequately for the student's age or to meet State approved grade-level standards; and
  - does not make sufficient progress to meet age or State approved grade-level standards; or
  - exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State approved grade level standards or intellectual development;
- The determination of the CSE concerning the effects of a visual, hearing, or motor disability, mental retardation, emotional disturbance, cultural factors, environmental or economic disadvantage, or limited English proficiency on the student's achievement level; and
- If the student has participated in a process that assesses the student's response to scientific, research-based intervention:
  - the instructional strategies used and the student-centered data collected; and
  - the documentation that the student's parents were notified.

Each CSE member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the CSE member must submit a separate statement presenting the member's conclusions.

## **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 reevaluate the child prior to making this recommendation. The CPSE/CSE shall also provide prior notice, in the native language or other mode of communication of the home, to the child's parent or guardian, that a reevaluation is being sought for the purpose of considering declassification and request written consent for this evaluation. If the initial request for consent for reevaluation 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 reevaluate the child without consent.

In order to determine the nature of this reevaluation, 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 services 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 its review, the CPSE/CSE will consider the student's ability to participate in instructional programs in regular 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 IDEA, 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, including the projected date of initiation of such services and the duration of these services. Declassification services shall be provided for no more than a 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, academic intervention services, or other services that may be appropriate for the child.

The CSE may determine the test accommodations 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 Declassification Document must indicate which, if any, test accommodations and/or program modifications the student continues to require.

The school district is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regent's

diploma or exceeding the age eligibility for a free appropriate public education, but is required to provide the performance, which includes recommendations on how to assist the student in meeting his or her post-secondary goals.

## **PROCEDURES FOR ASSESSING ENGLISH LANGUAGE LEARNERS & PROVIDING ENL SERVICES**

### **IDENTIFICATION OF ELLS**

At the time of registration to the school district, parents and guardians of all new entrants must complete a Home Language Questionnaire (HLQ) to determine if a language other than English is spoken in the home. These surveys are then sent to the appropriate school building where they are reviewed by the ENL teacher. He or she then begins the screening process for those students who speak another language in their home. The NYSITELL is then given to determine proper placement in the ENL program. The ENL teacher also requests the records of students, who arrive from another school district within New York State, to ascertain the student's level of English language proficiency designated on the previous year's New York State ENL Achievement Test (NYSESLAT). An English Language Learner (ELL) already receiving services in the district continues in the ENL program for two school years after achieving "commanding" on the NYSESLAT.

### **SCREENING PROCESS**

Using the HLQ as a guide, the ENL teacher in each building determines which new entrants need to be screened. He or she then conducts a short oral informal interview to determine if a student speaks a language other than English and is unable to speak English fluently. If the student is not fluent in English, the ENL teacher administers the New York State Identification for English Language Learners (NYSITELL). The score on this test determines the student's English language proficiency level. Students who do not score commanding are placed in ENL class(es).

### **ENL SERVICES**

Students who do not score at the commanding level on the NYISTELL or on the previous year's NYSESLAT are placed in ENL class(es) according to their level of proficiency (see chart below):

K-8	Level 1	Level 2	Level 3	Level 4	Level 5
ENL Pull-out	1 unit	½ unit	X	X	X
Integrated ENL	1 unit	1 unit	½ unit	1 unit*	½ unit (2 years )
ENL <u>or</u> Integrated	X	½	½	X	X
<b>Total Units</b>	2	2	1	1	½ (2 years)
<b>1 unit = 180 minutes</b>					
<b>* = could be other than ELA</b>					

9-12	Level 1	Level 2	Level 3	Level 4	Level 5
ENL Pull-out	1 unit	½ unit	X	X	X
Integrated ENL	1 unit	1 unit	½ unit	1 unit*	½ unit* (2 years )
ENL <u>or</u> Integrated	1	½	½	X	X
<b>Total Units</b>	3	2	1	1	½ (2 years)
<b>1 unit = 180 minutes</b>					
<b>* = must be other than ELA</b>					

Upon achieving a score of commanding as measured by the NYSESLAT, the student will receive ENL services for two additional years. Students who are referred for a bilingual assessment have usually been in the ELL program for at least two-three years. Traditionally, the referral comes from the ELL teachers who discuss their concerns about the student's progress with the building team or guidance counselor and/or the school psychologist with regard to the possibility of a disability interfering with the acquisition of academic and/or language skills.

Prior to referral, general education supports are attempted to determine if the student can make progress through these interventions.

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 native language. If the parents' dominant language is not English, they will receive all notifications in their dominant language. They will also receive the Parent's Guide to Special Education in their native language, if available.

At the CSE meeting, an interpreter will be provided for parents if their native 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 or her home country;
- the length of time the student has been receiving ENL instruction;
- attendance in school;
- the student's proficiency in his native 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 these 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.

Assessment scores of culturally and linguistically diverse students should only be reported if the tests are valid for the purposes for which they are intended and are determined not to be culturally, linguistically or racially discriminatory. It is inappropriate to use standard scores from tests that fail to assess and ELL student based upon norms reflective of the student's culture and linguistic background. For translated tests and other tests that do not meet appropriate validity, discrimination and standardization criteria, personnel must analyze the information gathered during the assessment process and use clinical judgement to provide a qualitative analysis of the student's abilities, strengths, and needs. This qualitative analysis should be supported by examples and qualitative descriptions of the student's performance on the various skill sets assessed so that the reader of the evaluation can understand the basis for the quantitative and qualitative statements contained in the evaluation.

For students who are English Language Learners (ELL) the CPSE/CSE must include persons with expertise in second language acquisition, such as student's ESL teacher.

### **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 CSE must ensure that all tests and assessment procedures are administered, so as not to be racially and 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 native 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 dialect 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 parents' dominant language is not English, they will receive all notifications in their dominant language. They will also receive the **Parent's Guide to Special Education** in their native language, if available.

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 or her home country;
- the length of time the student has been receiving ESL instruction;
- attendance in school;
- the student's proficiency in his native 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 has come 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 interpreting 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 native language;
- 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 LEP 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 CSE/CPSE meeting and the attendance sheet will indicate the name and language of this interpreter.
- (2) The 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 CSE/CPSE 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 of CSE/CPSE 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 ESL and special education services, as recommended by the CSE.

### **THE LANGUAGE PROFICIENCY TEAM (LPT)**

This team meets in order to determine if a new entrant with a special education classification should be identified as an English Language Learner. The team meets to determine if the child's special education classification and related services should substitute ENL instruction, in part due to the child's (learning) disability. The team consists of the child's parent(s), an interpreter, if necessary, the (Assistant) Director of Special Education, the building Principal, the chairperson of ENL, the classroom teacher, and the ENL teacher. Once the team arrives at a recommendation the Superintendent will make a final decision as to whether or not the child will be identified as an ELL and thus receive or not receive related ENL services. A letter will be mailed to the parents in order to summarize the recommendation.

## **EXTENDED SCHOOL YEAR (ESY) SERVICES**

The Committee on Special Education or 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(j) of the Commissioner's Regulations, students will be considered for twelve-month (12) 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 and who are placed in special classes;
- 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 habilitation and treatment;
- Students whose needs are so severe that they can be met only in a seven-day (7) residential program; or
- Students receiving other special education services, who, because of their disabilities exhibit the need for a twelve-month (12) special service and/or program provided in a structured learning environment of up to twelve (12) 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 (12) 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 (20) and forty (40) school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight (8) weeks or more would indicate that substantial regression has occurred.

## **RECOMMENDATION FOR ONE-TO-ONE AIDES FOR PRESCHOOL AND SCHOOL-AGE STUDENTS WITH DISABILITIES**

Effective June 29, 2016, Section 200.4(d)(3) of the Regulations of the Commissioner of Education, relating to the assignment of an individual aide to a student with a disability, has been amended to add a requirement that both Committees on Special Education (CSE) and Committees on Preschool Special Education (CPSE) make certain considerations prior to determining that a student needs a one-to-one aide. These considerations must include:

- the management needs of the student that would require a significant degree of individualized attention and intervention;
- the skills and goals the student would need to achieve that will reduce or eliminate the need for the one-to-one aide;
- the specific support that the one-to-one aide would provide for the student (e.g.: assistance with personal hygiene or behaviors that impede learning);
- other supports, accommodations and/or services that could support the student to meet these needs (e.g.: behavioral intervention plan, environmental accommodations or modifications, instructional materials in alternate formats, assistive technology devices, peer-to supports);
- the extent (e.g.: portions of the school day) or circumstances (e.g.: for transitions from class to class) the student would need the assistance of a one-to-one aide;
- staff ratios in the setting where the student will attend school;
- the extent to which assignment of a one-to-one aide might enable the student to be educated with nondisabled students and, to the maximum extent appropriate, in the least restrictive environment;
- any harmful effect on the student or on the quality of services that he or she needs that might result from the assignment of a one-to-one aide; and
- the training and support provided to the one-to-one aide to help him or her understand the student's disability-related needs, learn effective strategies for addressing the student's needs, and acquire the necessary skills to support the implementation of the student's individualized education program (IEP).

Section 200.4(d)(3) also clarifies that the assignment of shared one-to-one aides at the discretion of the school to meet the individualized needs of students whose IEPs include the recommendation for one-to-one aides is not prohibited or limited. The duties of a teacher aide or a teaching assistant providing individualized support to a student with a disability must be consistent with the duties prescribed in 8 NYCRR 80-5.6.

**EXEMPTION OF A STUDENT WITH A DISABILITY FROM THE REQUIREMENT IN  
HANDS-ON CARDIOPULMANARY RESUSCITATION AND THE USE OF  
AUTOMATED EXTERNAL DEFIBRILLATORS**

Section 100.2(c)(11) of Commissioner's Regulations requires that all students complete hands-only instruction in cardiopulmonary resuscitation (CPR) and instruction in the use of Automated External Defibrillators (AEDs) at least once between grades 9-12 prior to graduation. The standards for such instruction must be based on a nationally recognized instructional program that utilizes the most current guidelines for CPR and emergency cardiovascular care consistent with the requirements of the programs adopted by the American Heart Association or the American Red Cross.

Instruction must be designed to:

- recognize the signs of a possible cardiac arrest and to call 911;
- provide an opportunity to demonstrate the psychomotor skills necessary to perform hands-only CPR; and
- provide awareness in the use of an AED.

Most students with disabilities have the ability to complete the required instruction in hands-only CPR and the use of AEDs described above. In recognition that there may be some students who, due to the nature of their disability, will not be able to physically or cognitively perform the tasks included in such instruction. The Committee on Special Education (CSE) may determine, on an individual student basis, if a student with a disability should be excused from the requirement for instruction in hands-only CPR and the use of AEDs.

When a determination is made to excuse the student from this instructional requirement, the student's individualized education program (IEP) or Section 504 accommodation plan must include documentation of the Committee's decision. The determination of whether a student with a disability would require this exception should be made in the year in which the student would be expected to complete the instruction.

## **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 the student to benefit from instruction. IDEA 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. IDEA 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. This term does not include a medical device that is surgically implanted, or the replacement of such a device.

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:

- The evaluation of the needs of a child with a disability, including a functional evaluation of the student in the student's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for a child with a disability, or if appropriate, that child's family; and
- Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of that student.

A student's need for assistive technology is determined through the individual evaluation. The district's CSE/CPSE 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.

Since assistive technology services are provided as part of the student's special education instruction, related services and/or other supplementary aids and services, they must be provided by an appropriately licensed or certified individual in accordance with Section 200.6 of the Regulations of the Commissioner of Education.

## **GUIDELINES FOR LANGUAGE EXEMPT STATUS**

### **BACKGROUND**

**Effective November 2, 2018**, all students entering the 9<sup>th</sup> grade are required to **earn 1 High School credit in World Language** by successfully completing 2 units of study and pass the Checkpoint A exam (locally developed or regional) in order to be eligible for a Regents Diploma. The 9<sup>th</sup> graders who have taken and passed 7<sup>th</sup> grade and 8<sup>th</sup> grade World Languages class AND successfully completed the Checkpoint A exam will earn 1 unit of World Language credit.

For a Regents Diploma with Advanced Designation, students must complete a 3-unit sequence in **World Language** (Checkpoint B level of proficiency) and **pass** the Checkpoint B Exam (locally developed or regional), or complete a 5-unit sequence in occupational education, art or music. The student must also pass the regional examination.

According to the guidelines established by the New York State Education Department, a student may be exempted from the language requirement if his/her disability significantly interferes with the ability to learn a Language Other Than English. ***A reason or explanation for the exemption must be included on the IEP.*** Students who are language exempt are still eligible for a Regents Diploma and a Regents Diploma of Advanced Designation. Students must replace the language credits with other high school credits in order to fulfill their graduation requirements. The conditions for exemption from the LOTE requirement will be reviewed based upon evaluative data, teacher reports, anecdotal information and input from school staff and parents.

### **GUIDELINES**

The following guidelines have been established in order to qualify students for exemption status:

1. Each student will be evaluated on an individual basis to determine appropriateness for exemption from the requirements of LOTE.
2. The severity of the DISABILITY must be considered when an exemption from the LOTE requirement is given. The student's DISABILITY must specifically and severely impair receptive and/or expressive language skills in order to be exempted from the second language requirement.

3. In order to be considered for such an exemption, a student should meet one or more of the following conditions that is proven to impact on the student's academic performance:
  - A. an IQ of less than 80 **and/or**
  - B. an emotional disturbance **and/or**
  - C. a learning disability **and/or**
  - D. an auditory processing disability **and/or**
  - E. a reading level three or more years below age or grade level
  
4. The long-range goals of the individual student must be given consideration when an exemption from this requirement is given. Parents **MUST** be made aware that many colleges do not honor this exemption when considering a student's application and may require the student to fulfill the language requirement at the college level.

**NOTE: Students with Language Exempt status may still choose to complete a level 1 Checkpoint A course in a LOTE to earn one unit of high school credit in order to be college and career ready.**

### **SAMPLE CHARACTERISTICS**

The characteristics below may indicate a student's eligibility for language exempt status.

1. Difficulty in understanding spoken or written language, such as:
  - following directions
  - understanding requests of questions
  - attending to conversations
  - following stories
  - responding to language (e.g., by repeating rather than answering)
  - responding to gestures instead of language
  
2. Difficulty using language, such as:
  - remembering words or names
  - sequencing sounds or syllables in words, words in sentences and sentences in paragraphs or stories
  - forming complete sentences
  - confusing verb tenses
  - retelling stories or past events
  - relying on gestures instead of language
  
3. Poor memory skills, such as difficulty in:
  - recalling events
  - remembering names of persons or objects
  - learning math facts, letter sounds and sight words to an automatic level
  - using recalling strategies

- remembering directions

## **PROVISIONS FOR STUDENTS WITH DISABILITIES**

A student with a disability who is enrolled in a LOTE class will be expected to meet all course requirements with the following provisions:

1. If a disabled child is enrolled in a LOTE class, the student's special education teacher will make a copy of the IEP, showing necessary classroom and testing modifications, available to the language instructor.
2. Spelling exemptions may be allowed if stated in the IEP. This exemption requires the LOTE teacher to disregard contextualized errors when they are comprehensible to the reader.

April 2002  
LOTE Committee  
Amended December 2015

## **GUIDELINES FOR PARTICIPATION OF STUDENTS WITH DISABILITIES IN STATE AND DISTRICT-WIDE ASSESSMENTS**

The Board of Education believes that students with disabilities should have access to all testing accommodations necessary to participate in state and district-wide assessments, in order to ensure that the student's academic achievement and functional performance is fairly and accurately measured.

Test accommodations are changes made in the administration of a test, including testing procedures or formats, in order to remove obstacles to the test-taking process caused by a student's disability, that do not alter the measurement of a construct. The district recognizes that the provision of testing accommodations to students with disabilities enables such students to participate in assessment programs on an equal basis with their nondisabled peers. Testing accommodations provide students with disabilities the opportunity to demonstrate mastery of skills and attainment of knowledge without being limited or unfairly restricted by their disability. Further, testing accommodations provide opportunity for students with disabilities to gain access to more challenging courses and programs.

Therefore, the Board adopts the following guidelines to ensure that all state and district-wide assessments are administered using appropriate accommodations:

- Test accommodations must be provided on a consistent and uniform basis, as provided by each student's IEP and should not be excessive and not alter the standard administration of the test to the least extent possible;
- Test accommodations are neither intended nor permitted to:
  - alter the construct of the test being measured or invalidate the results;
  - provide an unfair advantage for students with disabilities over students

- taking tests under standardized conditions; or
- substitute for knowledge or abilities the student has not attained.
- The following students are eligible to receive test accommodations:
  - students classified by the CSE or CPSE as having a disability;
  - students identified as having a disability pursuant to Section 504 of the Rehabilitation Act by a 504 Multidisciplinary Team;
  - students who incur disabilities for 30 days or less before administration of a district-wide test and who are authorized by the principal to receive test accommodations; and
  - students previously declassified by the CSE or CPSE who are provided with declassification accommodations.
- The following individuals are authorized to make the decisions regarding test accommodations for a student with a disability:
  - the CSE or CPSE, if the student is classified under IDEA and the Commissioner's Regulations or if the student has been declassified;
  - the Section 504 Multidisciplinary Team for those students identified as having a disability pursuant to Section 504 of the Rehabilitation Act;
  - the school principal, for general education students who have incurred a short or long-term disability within 30 days before administration of assessment and where sufficient time is not available for the development of an IEP or 504 Plan.
- All appropriate testing accommodations will be designated in a student's IEP or 504 Accommodation Plan and will be reviewed at least annually by declassification accommodations
- Steps shall be taken to ensure that teachers and service providers are aware of test accommodations for students and how they are to be implemented.

## **TRANSITIONAL PLANNING SERVICES FOR STUDENTS WITH DISABILITIES**

### **Definition:**

*Transition Services* are defined in the IDEA and Article 89 as a coordinated set of activities for a student with a disability, designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities including, but not limited to, post-secondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's strengths, preferences and interests, and shall include needed activities in the areas of instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

Transition Services 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 these outcomes. The student's interests and needs are kept foremost in the decision making process.

For those students, beginning not later than the first IEP, to be in effect when the student is age 15 and at a younger age, if determined appropriate and updated annually, the IEP shall include:

- under the student's present levels of performance, a statement of the student's need, taking into account the student's strengths, preference and interests, as they relate to transition from school to post-school activities;
- appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and where appropriate, independent living skills;
- a statement of the transition service needs of the student that focuses on the student's courses of study, such as participation in advance-placement courses or a vocational education program;
- needed activities to facilitate the student's movement from school to post school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
- a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

At all meetings for the purpose of discussing the need for transition services, the student will be invited. In addition, with parental consent or consent of a student 18 years of age or older, the District must invite a representative of any participating agency that is likely

to be responsible for providing or paying for transition services. If an agency invited to send a representative does not do so, the District should take steps to involve the other agency in planning of any transition services.

At the CSE meeting in which transition services will be discussed, the student's parents must be provided with written information explaining the graduation requirements. Such information must include the eligibility criteria and processes for seeking an appeal to graduate with a lower score on a Regents examination and for requesting that a student be considered for a local diploma through the superintendent determination option. Parents must also be informed that graduation from high school with a local or Regents diploma will terminate their child's entitlement to a free appropriate public education.

### **TRANSITION ASSESSMENTS**

The CSE is responsible for conducting assessments to identify transition needs and appropriate transition services for students with disabilities. Beginning for students with disabilities at age 12 and students referred to special education for the first time who are age 12 and over, these assessments and parent and student interviews to determine vocational skills, aptitudes, and interests. A variety of additional transition assessments should be considered, and selection of assessments should be based upon each student's current learning needs and future considerations in the areas of independent living, employment and education/training. Information gathered in these areas assists the CSE to determine what skills need to be taught and what services need to be provided to allow a student to make progress. The use of age-appropriate transition assessments helps ensure that the student is an active participant in the development of the IEP and provides the necessary information to make informed decisions regarding programming and appropriate linkages to community agencies and/or other postsecondary services and environments. Assessment options may include reviews of student records; interviews with the student, parents and teachers; paper-pencil assessments, situational assessments; academic or work experience progress reports; or postsecondary education assessments.

### **THE COORDINATED SET OF ACTIVITIES ARE:**

- **Instruction** – Education instruction that will be provided to the student to achieve the stated outcome(s), such as general and/or special education course instruction, occupational education and advanced placement courses.
- **Related Services** – These are specific related services, as defined in Section 200.1 of the Regulations of the Commissioner of Education, such as rehabilitation counseling services, which 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, such as dressing, hygiene, self-care skills, and self-medication, necessary to be worked on to achieve the stated outcome(s).
- **Functional Vocational Assessment** (if appropriate) – If the vocational 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.

### **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 Plainview-Old Bethpage Central 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 who 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 who 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 these 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)
- submission of reports to the State Education Department

## OPPORTUNITIES TO EARN HIGH SCHOOL DIPLOMAS

It is the policy of the school district to ensure that each student has been provided with appropriate opportunities to earn a Regents or local high school diploma. Students are provided with meaningful access to participate and progress in the general education curriculum designed to meet the State’s learning standards. Access to the curriculum not only means that students are taking the appropriate courses needed to earn a regular diploma, but also that they are being provided with appropriate specially-designed instruction, accommodations, supports and services to progress in the curriculum. Access must be provided to the requires courses, electives and exams as specified in Part 100 of the Regulations of the Commissioner in order to attain a Regents or local high school diploma.

### 1. Current Safety Net Options Available to Students with Disabilities

<b>Safety Net Options</b>	<b>Description</b>	<b>Diploma Type</b>
55-64 Low Pass Safety Net Option	<p>The Low Pass Safety Net Option allows a student with a disability to meet the testing requirements for a local diploma by achieving a score between 55 and 64 on one or more of the required Regents examinations (i.e., English language arts (ELA), mathematics, science, social studies (i.e. United States history and government and/or global history and geography)).</p> <ul style="list-style-type: none"> <li>• Non-Regents examinations (e.g., NY State Education Department (NYSED)-approved alternative assessments or Regents Competency Tests (RCTs)) are no subject to the Low Pass Rate Safety Net Option.</li> <li>• A student with a disability who makes use of the Low Pass Safety Net Option may also use the Compensatory Safety Net Option or, if eligible, the RCT Safety Net Option to meet graduation requirements for a local diploma.</li> </ul> <p>*Low pass options are available to students with current IEPs, 504 Accommodations Plans if documented in the plan or students declassified while in grade 8-12 if necessary and documented by the CSE.</p>	Local Diploma
55-64 Low Pass Safety Net Option with Appeal	<p>The Low Pass Safety Net Option with Appeal allows a student with a disability who has taken and passed a course in preparation to take a Regents examination, has a 65-course average, and scores between 52-54 on up to two Regents examinations<sup>1</sup>, to appeal to graduate with a local diploma using this lower score. An appeal may be initiated by a student or by the student’s parent/guardian or teacher and must be submitted to the student’s school principal. Through this appeal, the student seeks a waiver of the graduation assessment requirement in the subject area under appeal. Approval of the appeal will not change the student’s score on the Regents examination under appeal.</p> <ul style="list-style-type: none"> <li>• To be eligible to appeal a score of 52-54, a student with a disability must meet all other conditions of appeal as follows:               <ol style="list-style-type: none"> <li>1. Have taken the Regents examination under appeal at least two times;</li> <li>2. Have a least one score on the Regents examination under appeal within the 52-54 score band;</li> <li>3. Present evidence that the student has taken advantage of academic help provided by the school in the subject tested by the Regents examination under appeal;</li> <li>4. Have a course average in the subject under appeal that meets or exceeds the required passing grade by the school (as evidenced</li> </ol> </li> </ul>	Local Diploma

	<p>in the official transcript that records grades achieved by the student); and</p> <p>5. Be recommended for an exemption to the graduation requirement by the student's teacher or Department chairperson in the subject of the Regents examination under appeal.</p> <ul style="list-style-type: none"> <li>• The decision to grant or deny an appeal is made at the district level and is <u>not</u> subject to State Education Department approval.</li> <li>• Non-Regents examinations are not subject to the appeals process.</li> <li>• A student with a disability who makes use of the Low Pass Safety Net Option with Appeal may also use the Compensatory Safety Net Option to meet graduation requirements for a local diploma.</li> </ul>	
Compensatory Safety Net Option	<p>The Compensatory Safety Net Option allows a student with a disability who scores between 45-54 on one or more of the required Regents examinations (except for ELA or mathematics) to compensate the low score with a score of 65 or higher on another required Regents examination to graduate with a local diploma.</p> <ul style="list-style-type: none"> <li>• To be eligible for the Compensatory Safety Net Option, a student with a disability must meet all conditions as follows: <ol style="list-style-type: none"> <li>1. Obtain a score of at least 55 (or an approved appeal of 52-54) on both the ELA and Mathematics Regents examinations.</li> <li>2. Obtain a passing grade that meets or exceeds the required passing grade by the school for the course in the subject area of 45-54.</li> <li>3. Have a satisfactory attendance rate, in accordance with the district's or school's attendance policy, for the school year during which the student took the examination in which he or she received a score of 45-54, exclusive of excused absences.</li> </ol> </li> <li>• A score of 65 or higher on a single examination may not be used to compensate for more than one examination for which a score of 45-54 is earned.</li> <li>• A student with a disability who makes use of the Compensatory Safety Net Option may also use the Low Pass Appeal Option (i.e., appeal scores of 52-54) to meet graduation requirements for a local diploma.</li> <li>• A student with a disability may not use the Compensatory Safety Net Option if he or she is using a passing score on one or more RCTs to graduate with a local diploma.</li> </ul>	Local Diploma
Superintendent Determination Option	<p>The Superintendent Determination Option allows a superintendent (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to make a local determination that a student with a disability has otherwise met the standards for graduation with a local high school diploma when such a student has not been successful, because of his/her disability, at demonstrating his/her proficiency on one or more of the Regents examinations required for graduation. The superintendent may only consider an eligible student for a local diploma through the Superintendent Determination Option upon receipt of a written request from the student's parent or guardian to the student's school principal or CSE chairperson.</p> <ul style="list-style-type: none"> <li>• To be eligible for the Superintendent Determination Option, a student with a disability must meet all the conditions as follows: <ul style="list-style-type: none"> <li>*Only available to students with a current IEP. Does not include students Section 504 accommodation plan or declassified students.</li> </ul> </li> </ul> <ol style="list-style-type: none"> <li>1. The parent/guardian submitted a written request that their child be considered for a superintendent determination;</li> <li>2. The student has a current IEP and is receiving special education programs and/or related services;</li> </ol>	Local Diploma

3. The student did not meet the graduation requirements through the low pass (55-64) safety net option or the compensatory option;

4. The student has earned the required course credits and has passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents examination areas (ELA, mathematics, social studies, and science);

5. The student:

➤ Earned a minimum score of 55 on ELA and Mathematics Regents examinations; and/or

➤ Successfully appealed a score between 52 and 54 on the ELA and Mathematics Regents examinations; and/or

➤ was unable to achieve a minimum score of 55 or did not initiate an appeal of a score of between 52 and 54 on the ELA and/or Mathematics Regents Examinations, but he or she completed the requirements for the New York State Career Development and Occupational Studies (CDOS) Commencement Credential<sup>2</sup>.

6. The student has participated in all Regents examinations required for graduation but has not passed one or more of these examinations; and

7. The student has otherwise demonstrated competency in the subject areas(s) where the student was not able to demonstrate his/her proficiency of the State's learning standards through the Regents examination.

- In making the determination, the superintendent, in consultation with the principal, must review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma.

- The student and the parent of the student must receive written notice of the determination with a copy of the completed Superintendent Determination of Graduation with a Local Diploma form:

- Where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education after graduation with a local diploma.

- Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

<sup>1</sup>All students, including students with disabilities, who score between 60-64 on up to two Regents examinations may appeal to graduate with a local or Regents diploma using this lower score. Students who are granted one appeal of a score between 60-64 from their local school district earn a Regents diploma. Students who are granted two appeals of a score between 60-64 earn a local diploma. <sup>2</sup>Only for students otherwise eligible to graduate on or after December 12, 2017.

## **2. Pathways to Graduation 4+1 Option**

- Student must pass **four** required Regents examinations or Department Approved Alternatives in ELA, math, science and social studies
- **Plus** any **one** of the following options:
  - Complete the requirements for the CDOS Commencement Credential; or
  - Pass an additional math Regents exam in a different course or Department Approved Alternative; or
  - Pass an additional science Regents exam in a different course or Department Approved Alternative; or
  - Pass an additional social studies Regents examination in a different course or Department Approved Alternative; or
  - Pass an additional English assessment in a different course selected from the Department Approved Alternative list; or
  - Pass a Department approved CTE pathway assessment, following successful completion of an approved CTE program; or
  - Pass a Department approved pathway assessment in the Arts; or
  - Pass a Department approved pathway assessment in Language other than English (LOTE)

## **3. Requirement for Regents Diploma with Advanced Designation Using the 4 + 1 Pathway Option**

- Students may avail themselves of the Pathway assessment option and earn a Regents Diploma with Advanced Designation
  - **Traditional:** ELA, Global History and Geography or Global History, US History and Government, one math, one science, plus 2 additional math and 1 additional science (for a total of two science; 1 must be a life science and one must be a physical science) = 8 Assessments
  - **Pathway Combination (other than STEM):** ELA, 1 science, 1 social studies, 1 math, and either 1 pathway assessment other than science or math, or meet the requirements of the CDOS Commencement Credential, plus 2 additional math and 1 additional science (for a total of two science; 1 must be a life science and 1 must be physical science) = 7 Assessments plus CDOS or 8 Assessments
  - **STEM (Mathematics) Pathway Combination:** ELA, 1 science, 1 social studies, 1 math, 1 math pathway, **plus** 2 additional math (for a total of four math) and 1 additional science (for a total of two science, 1 must be a life science and 1 must be a physical science) = 8 Assessments
  - **STEM (Science) Pathways Combinations:** ELA, 1 science, 1 social studies, 1 math, 1 science pathway, **plus** 2 additional math (for a total of three math) and 1 additional science (for a total of three sciences, 1 must be a life science and 1 must be physical science) = 8 Assessments

## **4. 4+ CDOS Pathway Option**

- Student must meet graduation course and credit requirements established in section 100.5 of the Regulations of the Commissioner of Education
- Pass four required Regents Exams in English, math science and social studies
- Meet the requirements to earn the New York State CDOS Commencement Credential

## **DEPARTMENT-APPROVED PATHWAY ASSESSMENTS IN CAREER DEVELOPMENT AND OCCUPATIONAL STUDIES – CDOS PATHWAY**

Students who are otherwise eligible to receive a high school diploma in June 2015 and thereafter must take and pass four required Regents Exams or Department-approved alternative assessments (one in each of the following subjects: English, math, science, and social studies) and either pass a comparably rigorous assessment for a fifth required exam, or in lieu of a fifth exam, complete the requirements to earn the CDOS Commencement Credential. Students may earn the CDOS Commencement Credential by completing all requirements set forth in Commissioner's Regulation Part 100.6(b)(1-3) or by passing a Department approved nationally-recognized work readiness assessment.

### **CAREER DEVELOPMENT AND OCCUPATIONAL STUDIES COMMENCEMENT CREDENTIAL**

The NYS CDOS Commencement Credential is a credential recognized by the NYS Board of Regents as a certificate that the student has the knowledge and skills necessary for entry level employment. There are two options available for students to earn this credential.

#### OPTION 1:

- The student must have developed a Career Plan that includes documentation of the student's self-identified career interests; career-related strengths and needs; career goals; and career and technical coursework and work-based learning experiences that the student plans to engage in to achieve those goals; and
- The student must have demonstrated achievement of the commencement level CDOS learning standards in the areas of career exploration and development; integrated learning; and universal foundation skills; and
- The student must have successfully completed at least 216 hours CTE coursework and/or work-based learning experiences (of which at least 54 hours must be in work-based learning experiences); and
- The student must have at least one completed employability profile that documents the Student's employability skills and experiences; attainment of each of the commencement level CDOS learning standards; and, as appropriate, attainment of technical knowledge and work-related skills, work experiences, performance on industry-based assessments and other work-related and academic achievements.

#### OPTION 2:

In lieu of a student meeting the requirements of option 1 to be awarded the NYS CDOS Commencement Credential, a district may award a student this credential if the student has met the requirements for one of the **nationally recognized work readiness credentials**, including but not limited to:

- National Work Readiness Credential;
- SkillsUSA Work Force Ready Employability Assessment;
- National Career Readiness Certificate WorkKeys – (ACT); and
- Comprehensive Adult Student Assessment Systems Workforce Skills Certification System.

Although the district may provide individual students the option of earning the NYS CDOS Commencement Credential by meeting the requirements for one of the nationally recognized work readiness credentials, the national credential option will not be the only option available to students in the district to earn the CDOS Credential.

### **SKILLS AND ACHIEVEMENT COMMENCEMENT CREDENTIAL**

The Skills and Achievement Commencement Credential will provide this group of students who are exiting school after attending 12 years, excluding kindergarten, with a commencement certificate similar in form to the diploma issued by the school district. The credential would not be considered a regular high school diploma in accordance with State standards. The Skills and Achievement Commencement Credential must be accompanied by documentation of the student's skills and strengths and levels of independence in academic, career development and foundation skills needed for post-school living, learning and working.

The district will issue a Skills and Achievement Commencement Credential to each student with a severe disability in accordance with the following rules.

- Only students with disabilities who have been instructed and assessed on the alternate performance level for the State learning standards (NYSAA) are eligible for this credential award.
- The credential may be awarded any time after such student has attended school for at least 12 years, excluding kindergarten or received a substantially equivalent education elsewhere; or at the end of the school year in which a student attains the age of 21.
- The credential would not be considered a regular high school diploma in accordance with State standards or for federal accountability purposes.
- The credential must be similar in form to the diploma issued by the school district or nonpublic school, except that there shall appear on the credential a clear annotation to indicate the credential is based on achievement of alternate academic achievement standards.
- The credential must be issued together with a summary of the student's academic achievement and functional performance, known as the Student Exit Summary, and must include documentation of the student's:
  - achievement against the Career Development and Occupational Studies learning standards <http://www.p12.nysped.gov/cte/cdlearn/>; NYSAA;
  - level of academic achievement and independence as measured by NYSAA;
  - skills, strengths, interests; and
  - as appropriate, other achievements and accomplishments.
- For students less than 21 years old, the credential must be provided with a written assurance that the student continues to be eligible to attend the public school district in which the student resides without payment of tuition until the student has earned a regular high school diploma or until the end of the school year in which the student turns 21, whichever occurs first.

**SECTION 5**

**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 the parents of a student with a disability, at a minimum one time per year and also upon:

- initial referral or parental request for evaluation;
- the first filing of a due process complaint notice to request mediation or an impartial hearing; and
- upon request of a parent
- when a decision is made to suspend or remove the student for discipline reasons that would result in a disciplinary change in placement
- receipt of parent's first state complaint in a school year

## **PRIOR WRITTEN NOTICE**

Prior Written Notice means written statements provided to the parents of a student with a disability a reasonable time before the 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.

Prior Written Notice must include a description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, a description of other options considered and rejected, a description of the evaluations and reports used as a basis for the decision, and a description of the factors relevant to the proposal or refusal. Prior Written Notice must also inform parents of their protection under procedural due safeguards and how a copy of these safeguards may be obtained. Parents are also provided sources to contact to obtain assistance in understanding these provisions.

Prior Written Notice must be written in language understandable to the general public and in the native language of the parents unless it is clearly not feasible to do so. A parent of the student with a disability may elect to receive Prior Written Notice and other required communication by electronic mail (e-mail) communication if the school district makes this option available.

## **INFORMED CONSENT (CSE and CPSE)**

### ***Consent means:***

- the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought, and has been notified of the records of the student which will be released and to whom they will be released;
- the parent understands and agrees in writing to the activity for which consent is sought; and
- the parent is made aware that the consent is voluntary on the part of the parent and may be revoked at any time except that, if a parent revokes consent, that

revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### **WRITTEN PARENTAL CONSENT IS REQUIRED PRIOR TO:**

**Initial Evaluation** – Upon receipt of a referral to the CSE/CPSE of a student who is suspected of having a disability, parental consent for evaluation is requested. The parent is contacted by a representative of the CSE/CPSE regarding the referral. The reason for the referral and the evaluation process are explained. The parent is also provided with a copy of due process rights, information describing the components of a comprehensive evaluation and **A Parent's Guide to Special Education**. Translations are provided to the parent as needed. 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 not 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 notify the Board of Education that they may utilize the due process procedures to permit the district to conduct an evaluation of the student without the consent of the parent.

If a parent of a student who is home instructed or placed in a private school by their parents at their own expense does not provide consent for an initial evaluation or reevaluation, or the parent fails to respond to a request to provide consent, the school district may not continue to pursue those evaluations by using due process procedures. The school district is also not required to consider the student as eligible for special education services.

The initial evaluation to determine if a student is a student with a disability must be completed within 60 days of receiving parental consent for the evaluation. The 60-day timeframe shall not apply if:

- a student enrolls in district after parental consent has been received and prior to a determination by the previous school district as to whether the student is a student with a disability. The district will ensure prompt specific time when the evaluation will be completed; or
- the parent and the district will agree to a specific time when the evaluation will be completed; or
- the parent of the student repeatedly fails or refuses to produce the student for the evaluation.

**INITIAL PROVISION OF SPECIAL EDUCATION SERVICES** – If the CSE/CPSE determines the student has a disability and recommends special education services, parental consent to initial placement is required. If a parent refuses to give written consent, the district may not deny the parent or child any other service, benefit, or activity of the school district, except for the recommended special education service. Parents are given the opportunity for further discussion with the Chairperson of the CSE or

school staff, if needed. Outreach effort are made, when necessary, to ensure the parent has received and understands the request for consent for placement. 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 the student refuses to consent or fails to respond to a request to provide consent to the provision of special education programs and services, the school district shall not provide special education services to the student and shall not use due process procedures to challenge the parent's refusal to consent. The school district will not be considered to be in violation of the requirements to make available a free appropriate public education for the failure to provide the student with the special education program and services for which the district requests consent. The district will not be required to convene a meeting of the Committee on Special Education or develop an IEP for the special education program and services for which the school district requests consent.

### **REVOCAION OF PARENTAL CONSENT**

If, at any time, subsequent to the initial provision of special education programs and services, the parent of a student revokes consent in writing for the continued provision of special education and related services to the student, the school district:

- will not continue to provide any special education and related services to the student, but must provide prior written notice to the parent before ceasing the provision of special education and related services;
- will not use due process procedures, such as mediation, resolution meeting, and/or an impartial due process hearing, in order to obtain agreement or a ruling that the services may be provided to the student without parental consent;
- will not be considered to be in violation of the requirement to make a free and appropriate public education (FAPE) available to the student because of the failure to provide the student with further special education and related services;
- is not required to convene a meeting of the CSE or develop an IEP for the student
- is not required to amend the student's education record to remove any references to the student's receipt of special education programs and services

**REEVALUATION** – Parental consent will be requested prior to conducting a reevaluation of the student with a disability; however, the district may proceed with the reevaluation if the parent/guardian does not respond and reasonable measures have been taken 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.

## **REQUESTS FOR RECORDS/OTHER COMMUNICATIONS WITH NON-DISTRICT PERSONNEL**

Parent consent is requested for the following:

- release of CSE records to another agency/individual;
- request for copies of reports/evaluations from another agency/individual;
- request for verbal communications with another agency/individual;
- see section on **Special Education Records: Access and Accessibility** for further information in this regard.

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

### **INDEPENDENT EDUCATIONAL EVALUATIONS**

At the time of the CSE/CPSE initial or reevaluation, the Office of Pupil Personnel Services will inform parents their right to an independent evaluation by providing them with a copy of the Procedural Safeguards Notice. If the parents disagree with the evaluation conducted by the CSE, parents may request one independent evaluation in each discipline 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 will be provided upon request.

The school district may ask for the parent's reason why he or she objects to the public evaluation. The school district has a 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.

Any independent evaluation, whether paid for by the parent or by the school district, will be reviewed by the CSE and taken into consideration in its decision with respect to the provision of a free appropriate public education.

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

- the qualifications of the evaluator(s) shall be the same as the criteria which the district uses when it initiates an evaluation;
- 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, must have experience in the area of their specialty and must have experience with students of a similar age;

- the evaluation will take place in the metropolitan area: Nassau, Queens, Suffolk or Manhattan.
- the tests performed must be norm-referenced for individual evaluation appropriate for the age and educational level of the student, and measure the same cognitive, motor, and affective skills as district tests;
- the cost of an independent evaluation requested by a hearing officer shall be at district expense;
- reimbursement shall be requested no later than ninety (90) calendar days after the district's evaluation has taken place;
- reimbursement will not be in excess of the reasonable cost of such evaluation, less the portion of such costs paid through insurance or Medicaid payments. In the absences of unusual circumstances, costs will be deemed reasonable and allowable in accordance with the following fee schedule:

	<u>Not to Exceed:</u>
Psychological Evaluation	\$ 1,200.00
Neurological Evaluation	\$ 700.00
Educational Evaluation	\$ 700.00
Speech/Language Evaluation	\$ 500.00
OT Evaluation	\$ 500.00
PT Evaluation	\$ 500.00
Psychiatric Evaluation	\$ 1,500.00
Neuropsychological Evaluation	\$ 5,000.00
Audiological Evaluation	\$ 400.00
Auditory Processing Evaluation	\$ 1,200.00
Assistive Technology Evaluation	\$ 1,800.00
Comprehensive Evaluation (Autism)	\$ 4,000.00

**Resources for Independent Evaluations**

Nassau University Medical Center  
 Child Development Center – Pediatrics  
 2201 Hempstead  
 Turnpike  
 East Meadow, NY 11554  
 (516) 572-6177

Cohen's Medical Center  
 Development & Behavioral Pediatrics  
 1983 Marcus Avenue, Suite 130  
 Lake Success, NY 10042  
 (516) 802-6100

North Shore Child & Family  
 Guidance Center  
 480 Old Westbury Road  
 Roslyn Heights, NY 11577-2215  
 (516) 626-1971

Fay J. Linder Center for Autism  
 189 Wheatley Road  
 Brookville, NY 11545  
 (516) 686-4440

Adelphi University  
 158 Cambridge Avenue  
 Garden City, NY 11530  
 Center for Psychological Services  
 (516) 877-4820  
 Hy Weinberg Center for Communication  
 Disorders

Hofstra University  
 Hempstead Turnpike  
 Hempstead, NY 11549  
 Reading, Writing, Learning Clinic  
 (516) 463-5805  
 Psychological Evaluation Research & Counseling  
 Clinic (516) 463-5660

(516) 877-4850

Saltzman Speech-Language-Hearing Center  
(516) 463-5656

North Shore University Hospital/LIJ  
Cohen Children's Medical Center of NY  
Pediatric Neurology and Epilepsy Center  
410 Lakeville Road  
New Hyde Park, NY 11042  
(516) 465-5255

Metro Therapy  
1363-8 Veterans Memorial Hwy.  
Hauppauge, NY 11788  
(631) 366-3876

All About Kids  
255 Executive Drive, LL 1080  
Plainview, NY 11803  
(516) 576-2040

The Cody Center for Autism and Developmental  
Disabilities  
Stony Brook Medical Center  
37 Research Way  
East Setauket, NY 11733  
(631) 632-3070  
(631) 444-4660

## **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, the student is an unaccompanied homeless youth, the student is a ward of the State, or the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law. The Board of Education shall select a surrogate parent from a list of individuals who are eligible and willing to serve as surrogate parents. The list is approved at the annual reorganization meeting of the Board.

### **QUALIFICATIONS:**

Persons selected as surrogate parents cannot be officers, employees or agents of the school district or 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:

- have no other interest which could conflict with their primary allegiance to the student they would represent;
- are committed to acquaint themselves personally and thoroughly with the student and the student's educational needs;
- 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:

- 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.
- 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;
- 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. Where the student is known to the district to be a ward of the State, reasonable efforts to discover the whereabouts of the parent shall include consultation with the local social service agency responsible for the care of the student. The determination of the need for a surrogate parent shall be completed within a reasonable time following the receipt of a referral for an initial evaluation, reevaluation or service. If the CSE finds there is a need for a surrogate parent, one who meets the qualifications identified above shall be selected from the list approved by the Board of Education within ten (10) business days of the date of determination by the CSE of the need for the surrogate parent.
- A referral for an initial evaluation, reevaluation or service. If the CSE finds there is a need for a surrogate parent, one who meets the qualifications identified above shall be selected from the list approved by the Board of Education within ten (10) business days of the date of determination by the CSE of the need for the surrogate parent.
- Once assigned, the surrogate parent shall represent the student for as long as a surrogate parent is required.
- The foster parent of the student, who otherwise meets the qualifications, may be appointed as the surrogate parent of the student without being appointed from a list approved by the Board of Education.
- The surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate parent meets the requirements above. The individual appointed by the judge need not be appointed from a list 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, to resolve disputes involving any matter for which an impartial due process hearing may be brought. By asking questions and discussing all information with both parties, the mediator helps the parents and school district representatives to reach a more complete understanding of each other's concerns and to reach an agreement about the special education programs and services that the student will receive. ***Mediation can only be initiated upon a written request of a parent or guardian.*** The mediation process is voluntary and may not be used to deny or delay a parent's rights to an impartial hearing. The mediators are qualified, impartial, have been trained in effective mediation techniques and are knowledgeable in laws and regulations relating to the provision of special education services. A mediator may not have a personal or professional interest which would conflict with his or her objectivity in the mediation process and may not be an employee of a school district or program serving students with disabilities. The mediation will be scheduled in a timely manner and held in a location convenient to the parties. ***Mediation occurs at no cost to either the parents 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. In the case that a resolution to resolve the complaint through the mediation process is reached, the parents and school district representative will execute a legally binding written agreement that details the resolution and states that all discussion that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The agreement will be signed by both the parent and representative of the school district who has the authority to bind the school district. The agreement is enforceable in any State or district court.

If the written agreement reached by the parties in mediation is inconsistent with the student's IEP, it must be immediately amended to be consistent with the mediation agreement.

Special education mediation will be conducted by the Community Dispute Resolution Center (CDRC) in Nassau 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.

## **IEP FACILITATION**

IEP Facilitation is a voluntary early dispute resolution option that is available when parents and districts both agree that the presence of a neutral third party would assist with communication and problem solving during a committee on special education (CSE) or committee on preschool special education (CPSE) meeting. The purpose of IEP Facilitation is to develop and sustain collaborative, productive relationships between CSE/CPSE members, keep meetings student-focused and reduce adversarial disputes during the IEP development process. IEP Facilitation is currently being used in several states with reported positive results.

A facilitated IEP meeting is the same as any other IEP meeting except that a neutral, trained facilitator joins the meeting. IEP Facilitators, selected by NYSED, have been trained in IEP Facilitation by nationally-recognized trainers; and in federal and State special education requirements relating to IEP development by NYSED staff. The IEP facilitator is not a decision-maker, is impartial and does not represent the parent, school district or State. An IEP Facilitator may be used for any CSE/CPSE meeting including for initial development of an IEP and annual review meetings. The IEP Facilitator's primary goal is to assist committee members in collaborative and productive construction or revision of a quality IEP for a student with a disability. This is accomplished by guiding the meeting process, encouraging participation from parents and other committee members and keeping the meeting focused on the needs of the student.

## **RESOLUTION SESSION**

Prior to an impartial due process hearing, the school district shall, within 15 days of receiving the due process complaint notice from the parent, convene a meeting where the parents of the student discuss their complaint and the facts that form the basis of their complaint, and the school district has the opportunity to resolve the complaint. The participants of the meeting shall include the parents and relevant members of the CSE who have specific knowledge of the facts identified in the complaint, including a representative of the district who has decision-making authority of the school district unless the parent is accompanied by an attorney. The parent and school district may agree to use alternative means of meeting participation, such as video conferences and conference calls.

The parent and the school district may agree in writing to waive the resolution session or agree to use the mediation process to resolve the dispute. If the parent and district reach an agreement to resolve the complaint at a resolution session, a legally binding agreement shall be signed by both the parent and a representative of the district who has the authority to bind the school district. This agreement shall be enforceable in any State or district may void the agreement within three business days of the agreement's execution.

If the school district has not resolved the complaint to the satisfaction of the parents within thirty (30) days of the receipt of the due process complaint notice, the impartial due process hearing may occur and all the applicable timelines for an impartial due process hearing shall commence.

Except where the parties have jointly agreed to waive the resolution process or use mediation, the failure of a parent to file a due process complaint to participate in the resolution meeting after reasonable efforts have been made and documented, the school district may, at the conclusion of the 30-day period, request that an impartial hearing officer dismiss the parents' due process complaint.

If the school district fails to hold the resolution meeting within 15 days of receipt of the parents due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of the impartial hearing officer to begin the due process hearing timeline.

### **APPOINTMENT OF IMPARTIAL HEARING OFFICERS**

The Board of Education annually establishes and maintains a list of names and qualifications of Impartial Hearing Officers available to serve in the school district from whom the district shall choose and impartial hearing officer.

A certified impartial hearing officer shall:

- 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 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 a 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;
- successfully complete a State Education Department training program; and
- attend such periodic update programs as may be scheduled by the commissioner.

## **APPOINTMENT AND SELECTION**

The updated list of certified IHOs for this county promulgated by the New York State Education will be used in connection with all requests for impartial due process hearings. The list shall include the names of those certified IHOs who appear on the state list for the County of Nassau or who have indicated their interest in serving in such capacity in the Plainview-Old Bethpage School District.

Upon receipt of a complete due process complaint notice, the rotational selection process for the IHO shall be initiated immediately and always within two days after receipt of such request. Should an IHO decline appointment, or if within 24 hours the IHO fails to respond or is unreachable after reasonable attempts by the District Clerk or designee, such district representative shall then proceed through the list to determine availability of the next successive IHO.

The impartial hearing officer may not accept the appointment unless he or she is available to make a determination of sufficiency of a due process complaint notice within five days of receiving such a request, unless an extension is granted, and to initiate the hearing within the first 14 days after:

- the date upon which the impartial hearing officer receives the parties' written waiver of the resolution session; or
- the date upon which the impartial hearing officer receives the parties' written confirmation that a resolution session was held but no agreement could be reached; or
- the expiration of the 30-day period beginning with the receipt of the due process complaint notice; whichever occurs first.

The District Clerk or designee shall then proceed through the list to determine availability of the next successive IHO.

Upon identifying the next IHO on the list who is available to serve, the Board of Education President shall appoint such person to serve as the IHO.

Records relating to the IHO process including, but not limited to, the request for availability, initiation and completion of such impartial due process hearing will be maintained by the district and such information will be reported to the Office of Vocational and Educational Services for Individuals with Disabilities of SED as required by the Commissioner's Regulations.

## **PROCEDURES**

1. 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.
2. The list must be established and maintained in alphabetical order with the new appointees being inserted into the alphabetical order of the list.

3. 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.
4. 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

### **COMPENSATION**

The district shall compensate an impartial hearing officer for his or her services at the maximum rate established for such purpose by the Board of Education. This rate is \$100.00 per hour for pre-hearing, hearing, and post-hearing activities.

The district will reimburse for actual, reasonable and necessary transportation costs in accordance with the IRS reimbursement rates.

The district does not provide any reimbursement for lodging, meal expenses or mailing costs. The District will not reimburse impartial hearing officers for administrative assistants, secretarial or other overhead expenses.

### **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 a 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 from the list of surrogate parents maintained 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 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 6**

**RECORDS ACCESS  
AND CONFIDENTIALITY**

## **STUDENT RECORDS 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 Plainview-Old Bethpage Central 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 school 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.

**PARENT:** either parent, unless his/her right to access 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 or 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 or her the opportunity to present a court order or other binding instrument barring the release of the date 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 identifier, such as the student’s social security or student 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, THEIR LOCATION AND CUSTODIAN**

**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 development 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 suspensions or other disciplinary matter; and honors and awards.

**RECORDS KEPT BY THE DISTRICT BY TYPE/LOCATION AND CUSTODIAN**

	Central Admin.	PPS	Main Office/ Guidance Office	MS & HS Attendance Office	Teacher	Clinician	Nurse
Cumulative			X				
Health							X
Attendance			X	X	X		
Registration	X		X				
Standardized Test Records	X	X	X				
<b>CONFIDENTIAL</b>							
Psychological		X					
Special Education		X					
Related Service Evaluations		X					

The Freedom of Information Law, Chapter 933 of the Laws of 1977, provides for unimpaird access to the records of government agencies by the public.

The Plainview-Old Bethpage School District makes student records available for review by parents, guardians and eligible students.

A link to the Parents’ Bill of Rights for Data Privacy and Security can be found on the District’s website.

## **INSPECTION OF SCHOOL DISTRICT RECORDS**

- Parent(s), guardians(s) and eligible students may inspect and review the student's official records, files and data directly related to the student upon compliance with the following conditions:
- The parent or eligible student should submit to the student's school principal in the elementary schools or guidance counselor in the secondary schools a written request to see the student's file. If a student's records are maintained in several locations, the school principal will, upon request, collect the records, as described below. Such review will be scheduled promptly after receipt of the written request for access and in no case take place more than forty-five (45) days from the date of that receipt. For records containing information on more than one student, parent/student access is limited to only the information which pertains to their child.
- Records in the custody of the Department of Pupil Personnel Services may be obtained upon request to the Director of Pupil Personnel Services. Appointments for review of special education records will be made upon a minimum of three days' notice at the mutual convenience of staff, parent or eligible student.
- Within five (5) school days of receipt of a written request for a record, the principal or guidance counselor shall make such record available, deny such request in writing, or furnish a written acknowledgement of the receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within ten (10) business days after the principal or guidance counselor acknowledges receipt of the request, failure to respond may be construed as a denial of access that may be appealed.
- Any person denied access to a record, within thirty (30) days from receipt of notice of such denial, may appeal the denial in writing, to the Superintendent of Schools or a designee. It may be appealed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.
- Appropriate school district personnel will be present during record inspection to interpret and explain records during the school year. Records may be inspected between 9:00 a.m. and 3:00 p.m. 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.

## **TRANSMITTAL OF RECORDS**

To facilitate the transition for a student, the new school district in which the student enrolls will take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education services to the student, from the previous school in which the student was

enrolled. The previous school in which the student was enrolled will take reasonable steps to promptly respond to this request from the new school.

### **RELEASE OF STUDENT RECORDS TO THIRD PARTIES**

- **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.
  
- **Parents' Bill of Rights for Data Privacy and Security** – Pursuant to New York State Education Law §2-d, parents, legal guardians and persons in parental relation to a student are entitled to certain rights with regard to their child's personally identifiable information, as defined by Education Law §2-d. This document contains a plain-English summary of such rights.
  1. A student's personally identifiable information cannot be sold or released for any commercial purposes.
  2. Parents have the right to inspect and review the complete contents of their child's educational records maintained by the Plainview Old-Bethpage Central School District.
  3. State and Federal Laws protect the confidentiality of personally identifiable student information, and safeguards associated with industry standards and best practices, including, but not limited to, encryption, firewalls, and password protection must be in place when data is stored or transferred.
  4. A complete list of all student data elements collected by New York State is available for review at the following website:

<http://www.p12.nysed.gov/irs/sirs/documentation/NYSEDstudentData.xlsx>

The list may also be made available by writing to:

Office of Information & Reporting Services  
New York State Education Department  
Room 863 EBA,  
89 Washington Avenue  
Albany, NY 12234

5. Parents have the right to have complaints about possible breaches of student data addressed. Complaints should be directed to:

Dr. Vincent K. Mulieri  
Asst. Superintendent for Human  
Resources  
Plainview-Old Bethpage CSD  
106 Washington Avenue  
Plainview, NY 11803  
[vmulieri@pobschools.org](mailto:vmulieri@pobschools.org)  
(516) 434-3040

**-OR-**

Chief Privacy Officer  
NYS Education  
Department  
89 Washington Avenue  
Albany, NY 12234  
[CPO@mail.nysed.gov](mailto:CPO@mail.nysed.gov)

6. Each contract with a third-party contractor which will receive student data, or teacher or principal data will include information addressing the following:

- a. The exclusive purposes for which the student data or teacher or principal data will be used.
- b. How the third-party contractor will ensure that the subcontractors, persons or entities that the third-party contractor will share the student data or teacher or principal data with, if any, will abide by data protection and security requirements.
- c. When the agreement expires and what happens to the student data or teacher or principal data upon expiration of the agreement.
- d. If and how a parent, student, a student over eighteen years of age, teacher or principal may challenge the accuracy of the student data or teacher or principal data that is collected; and
- e. Where the student data or teacher or principal data will be stored, and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

7. Third party contractors are also required to:

- a. Provide training on federal and state law governing confidentiality to any officers, employees, or assignees who have access to student data or teacher or principal data;
- b. Limit internal access to education records to those individuals who have a legitimate educational interest in such records.
- c. Not use educational records for any other purpose than those explicitly authorized in the contract;
- d. Not disclose personally identifiable information to any other party (i) without the prior written consent of the parent or eligible student; or

- e. (ii) unless required by statute or court order and the third-party contractor provides a notice of the disclosure to the New York State Education Department, board of education, or institution that provided the information no later than the time the information is disclosed, unless providing notice of the disclosure is expressly prohibited by the statute or court order;
  - f. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of personally identifiable student information in its custody;
  - g. Use encryption technology to protect data while in motion or in its custody from unauthorized disclosure as specified in Education Law §2-d;
  - h. Notify the Plainview Old-Bethpage Central School District of any breach of security resulting in an unauthorized release of student data or teacher or principal data, in the most expedient way possible and without unreasonable delay;
  - i. Provide a data security and privacy plan outlining how all state, federal and local data security and privacy contract requirements will be implemented over the life of the contract;
  - j. Provide a signed copy of this Bill of Rights to the Plainview-Old Bethpage Central School District thereby acknowledging that they are aware of and agree to abide by this Bill of Rights.
8. This Bill of Rights is subject to change based on regulations of the commissioner of Education and the New York State Education Department's Chief Privacy Officer, as well as emerging guidance documents.

### **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 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 secretaries monitor access to student files. They acknowledge and are familiar with all staff who have access. Professionals visit the CSE/CPSE 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. The student's original record is **not** allowed out of the office at any time.

### **PROCEDURES 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 Pupil Personnel Services of objections and shall prepare and sign a statement identifying the records believed to be inaccurate, misleading or otherwise in violation of rights together with a reason for challenge. Upon receipt of such statement, the principal or Director 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 principal or Director finds no basis for amendment, he or she shall so advise the student or parent in writing and advise them of the right to a hearing.
- The principal or Director will also advise the student or parent of the right to place in the education 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 as 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 regular educational student may be made to the FERPA Office of the U.S. Department of Education.

## HEARING PROCESS

- A hearing pursuant 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 shall direct the principal or Director of Pupil Personnel Services to make the appropriate changes. Otherwise, he shall advise the parent of the right to place in the education record a statement commencing on the challenged information.
  
- A parent who disagrees with the findings of the hearing officer may request review by the Board of Education and in the case of special education records, by the Office of Pupil Personnel 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 1087 FB 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 finds 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.

**SECTION 7**

**DISCIPLINE**

## **SCHOOL CONDUCT AND DISCIPLINE**

In accordance with Subpart 100.2(1) of the Regulations of the Commissioner of Education, the Plainview-Old Bethpage Central 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 educated in the schools of the district are generally expected to meet district 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:

- For more than ten (10) consecutive school days; or
- For a period of ten (10) consecutive 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:

- To an appropriate interim alternative educational setting, or suspension, for not more than ten (10) consecutive school days; and
- 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 a school function, or has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the educational agency.

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 Manifestation Team determines that the student's behavior is a manifestation of the student's disability. The setting shall be determined by the CSE.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct.

When a student with a disability is suspended or removed from his or her current placement for more than 10 consecutive school days or when suspension or removal constitutes a disciplinary change of placement and the student's conduct is a manifestation of the student's disability, the Committee on Special Education shall:

- Conduct a functional behavioral assessment and implement a behavioral intervention plan, provided that the school district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in the change of placement, or
- If the student already has a behavioral intervention plan, the CSE shall meet to review the plan and its implementation and modify the plan and its implementation, as necessary, to address the behavior that resulted in the change of placement.

### **PROVISION OF SERVICES DURING SUSPENSIONS**

During suspensions or removals for periods of up to ten (10) school days that do not constitute a disciplinary change in placement, students with disabilities of compulsory attendance age shall be provided with alternative instruction on the same basis as nondisabled students. Students with disabilities who are not of compulsory attendance age shall be entitled to receive services during such suspensions only to the extent that services are provided to nondisabled students of the same age who have been similarly suspended.

During subsequent suspensions or removal for a period of ten (10) consecutive school days or less than in the aggregate total more than ten (10) school days in a school year but do not constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP and to receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student's IEP.

During suspensions for periods in excess of ten (10) school days in a school year which constitute a disciplinary change in placement, regardless of the manifestation determination, students with disabilities shall be provided with services necessary to enable the student to continue to participate in the general education curriculum, to progress toward meeting the goals set out in the student's IEP, and to receive a functional behavioral assessment, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. The IAES and services shall be determined by the CSE.

## **SUPERINTENDENT'S HEARING ON DISCIPLINARY CHARGES AGAINST STUDENTS 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 a 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 Manifestation Team, 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 a determination by the Manifestation Team 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 with the penalty phase of the hearing. If the Manifestation Team 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 a disciplinary action involving a change in 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, a review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made immediately, if possible, but in no case later than 10 school days after the date on which the decision to take disciplinary action was made. This review will take place by a manifestation team in a meeting, which shall include a representative of the school district knowledgeable about the student and the interpretation of information about child behavior, the parents and relevant members of the CSE as determined by the parent and the school district. The parent must receive written notification prior to any manifestation team meeting to

ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.

The manifestation team shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if:

- the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
- the conduct in question was the direct result of the school district's failure to implement the IEP.

If the manifestation team determines that the above criteria are applicable to the student, the behavior shall be considered a manifestation of the student's disability. If the manifestation team determines that the conduct was a manifestation of the student's disability, the CSE shall:

- conduct a functional behavioral assessment and implement a behavioral intervention plan for the student; and
- return the student to the placement from which he or she was removed, unless the parent and the school district agree to a change of placement as part of the modification of the behavior intervention plan.

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 or review of 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 or appeal procedures.

## **DETERMINATION OF SETTING**

Students with disabilities who have been suspended or removed from their current placement for more than 10 school days may be placed in an interim alternative educational setting (IAES). The IAES shall be an educational setting other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall: (1) continue to receive educational services so as to enable the student to participate in the general education curriculum, although in another setting, and to progress toward the goals set out in the student's IEP; and (2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not 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 manifest 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 in an expedited due process hearing may order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

The procedures established in this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

### **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 conducted in accordance with the procedures for a non-expedited due process hearing except for the following time periods:

- a resolution meeting shall occur within seven days of receiving notice of the due process complaint, unless the parent and school district agree in writing to waive the resolution meeting or agree to use mediation;
- the expedited due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of receipt of the due process complaint;
- the expedited due process hearing shall occur within 20 school days of the date the complaint requesting the hearing is filed; or
- the impartial hearing officer shall make a determination within 10 school days after the hearing.

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 and to the office of Special Education of the New York State Education Department within 10 school days after the hearing. If the Superintendent concludes that the student's presence in 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 student with a disability if:

- the parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student is in need of special education, provided that such expression of concern may be oral if the parent does not know how to write or has a disability that prevents written statements; the behavior or performance of the student demonstrates the need for such services;
- the parent has requested an evaluation of the student; or
- the teacher of the student or other personnel of the district, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the Director of Pupil Personnel or to other supervisory personnel of the school district in accordance with the district's established child find or special education referral system.

A student is not a student presumed to have a disability for discipline purposes if, as a result of receiving the information noted above:

- the parent of the student has not allowed an evaluation;
- the parent has refused special education services; or
- it was determined by the CSE that this student is not a student with a disability.

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 8**

**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 other accommodations such as a translator or barrier-free site, to participate in meetings of the Committee on Special Education or Preschool Special Education are requested to notify in writing the Pupil Personnel 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 regular classroom instruction, occupational education programs, ENL programs, laboratory instruction, support services, extracurricular activities and programs, special assemblies and events and career education programs. The district recognizes that extracurricular athletics – which include club, intramural or interscholastic athletics (freshman, junior varsity and varsity) - provide important health and social benefits including improved teamwork, leadership skills and fitness. The district will ensure that equal opportunity to participate in extracurricular athletics is provided to students with disabilities.

## **ACCESS TO OCCUPATIONAL EDUCATIONAL OPPORTUNITIES**

### **TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

Employment and educational opportunities, including vocational educational opportunities, are offered by the Plainview-Old Bethpage Central 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 the Title IX officer. He/she 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 9**

**MISCELLANEOUS**

## **DATA COLLECTION PROCEDURES**

All persons involved in the collection of data shall have received prior training and written information regarding the procedures to be followed in collecting data on students with disabilities, 8 NYCRR 200.2(a).

There are two levels at which data collection takes place; one is the district-level census which serves to identify students who reside within the district boundaries, who may be eligible to attend school. The study does not target students who may have disabilities. Therefore, the district will ensure that students with disabilities are located through the census procedures outlined below. The second phase of data collection is for youngsters already identified as having a disability.

### **CENSUS PROCEDURES**

The registrar, who is a full-time civil service employee, has been trained in the census procedures. Mailing labels for district-wide mailings are generated from the district's student management system that is designed to provide labels by mailing address. District-wide mailings are marked with a "do not forward" designation. When mail is returned to the district office as being undeliverable, the registrar follows up to ensure the family no longer resides in the district. As new families move in, the information is updated.

There is also a procedure in place to identify resident children who attend non-public schools. The school district compiles information about these students through the school district's Transportation Office, the centralized textbook service and the regional BOCES.

The school district's registration process is one that seeks information to identify students with special needs. The registrar has been instructed to ask new registrants questions regarding their youngsters' need for special education. The registration form also requests such information. Parents of youngsters who are known to have special educational needs are given the telephone number of the Assistant Superintendent for Special Education. The registrar also notifies the Special Education Office by telephone and follows up with a copy of the registration form of all new entrants. This also enables these new entrants to be scheduled for New Entrant Screening, which may determine the need for an in-depth evaluation for a youngster with a suspected disability.

The district calendar, which is mailed to each home annually, serves as part of "Child Find" by encouraging parents to access the CPSE/CSE if they feel their child may have special needs.

There is an annual report based on data collected on BEDS Day (first Wednesday in October) of each year to the Committee on Special Education of youngsters identified by the census procedures as having a disability.

**PROVISION OF SERVICES TO SCHOOL-AGED STUDENTS WITH DISABILITIES  
NOT SUBJECT TO COMPULSORY ATTENDANCE REQUIREMENTS AND NOT  
ENROLLED IN SCHOOL**

The Committee on Special Education (CSE) is responsible for providing special education services to a child with a disability under the age of seven who is eligible for school-age services, not subject to compulsory attendance requirements and not on a regular school attendance register for school-age children. These are children with disabilities determined by the CSE to be eligible for school-age special education services who are no longer eligible for preschool special education services, are not parentally placed in a nonpublic elementary school, and are not being home schooled.

If a parent of a child who meets the above criteria elects not to enroll his/her child with a disability in the public school until the child is of compulsory school age, the CSE of the child's school district of residence is responsible to develop an individualized education program (IEP) and offer special education services to the child. The site where the services are to be provided would be determined by the Board of Education. These children are "deemed enrolled" for the purpose of claiming state aid for the provision of special education and related services.

**BEHAVIOR INTERVENTION SERVICES AND PARENT TRAINING AT HOME**

There are specific classified students who require Behavior Intervention Services and/or Parent Training at home as per their IEP. For such students to receive these services, they must be present in school that day. If a student is absent from school, Behavior Intervention Services and/or Parent Training may not be provided.

**VISITATIONS BY OUTSIDE CONSULTANTS**

There may be times when a parent makes a request to have outside consultants or therapists visit classrooms. Should this request be made, please contact the Director of Pupil Personnel immediately who will refer the matter to the Superintendent of Schools.

## **SCREENING PROCEDURES**

A comprehensive procedure has been developed by the school district to locate, identify and provide programs for those students who need special services, including students who are gifted. 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 prior to scheduled entrance into kindergarten. Students who register after this time will be screened in September.

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.

## **SERVICES TO HOME-SCHOOLED STUDENTS WITH DISABILITIES**

Section 3602-c of the Education Law deems home-schooled students with disabilities and students suspected of having a disability to be non-public school students solely for the purpose of receiving special education services during the regular school year.

To be eligible for special education services, a home-schooled student must be a district resident entitled to attend public school. In addition, the student would be required to have an individualized home instruction plan (IHIP) that the Superintendent of Schools or his or her designee has determined to be in compliance with section 100.10 of the Regulations of the Commissioner of Education. Where the student is educated at home, the school district of location is the same as the student's school district of residence.

The district will notify all parents of students with disabilities who are in home instruction programs that:

- The Committee on Special Education (CSE) will develop an individualized education services program (IESP) for the student. The IESP would be developed in the same manner and have the same contents as an individualized education program (IEP). An IESP is developed in consideration of the parents' decision to home school their child.
- The parent must request special education services in writing to the Board of Education of the school district by April 1 preceding the school year for which the

request for services is made. However, for a student who is first identified as a student with a disability after the first day of April preceding the school year for which the request is made and prior to the first day of April of the current school year, the parent must submit the written request for services within 30 days after the student was first identified. A request may also be submitted within 30 days of a change in the student's school district of residence.

- Special education services must be provided to home-schooled students on an equitable basis as compared to special education programs and services provided to other students with disabilities attending public or nonpublic schools within the district.
- Parent of home-schooled students who disagree with the IESP recommendation of the CSE would be entitled to due process just as parents of nonpublic student are.
- A Board of Education determines the location where special education services will be available to home-schooled students, which could include the site of the home schooled.

### **GUIDELINES FOR PROVIDING PUBLIC SCHOOL SERVICES TO STUDENTS IN NON-PUBLIC SCHOOLS**

Parents of parentally placed private school students must request services from the District of Location (DOL) in writing by June 1<sup>st</sup> of the year prior to the year for which services are desired. The DOL has the obligation to develop an IESP. The IESP is developed by the CSE, based upon student needs, and has the same contents as the traditional IEP. State Education Department officials have indicated that the rationale for calling the new document an IESP as opposed to an IEP, is to distinguish the two documents in the event the District of Residence (DOR) prepares its own IEP by virtue of its continuing obligation to offer a FAPE. It is important to note that the amendments to Section 3602-c do not obviate the need for the DOR to evaluate, convene a CSE and offer FAPE if the parents of a parentally placed private school student make such a request or do not unequivocally state their intent to unilaterally place the child in a private school or to continue such a placement.

### **CONSULTATION REQUIREMENTS**

The **school district of location** must consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school students with disabilities enrolled in nonpublic elementary and secondary schools located within the boundaries of the school district during the design and development of special education and related services for students with disabilities and throughout the school year to ensure that parentally placed nonpublic school students identified through the child find process can meaningfully participate in special education and related services. The school district must engage in consultation regarding the child find process, provision of special education services, and use of federal funds. Consultation is not specific to individual

students. Individual services are determined by the Committee on Special Education (CSE). The consultation process must be timely and meaningful and include discussion of the following:

***Child Find:***

- The child find process and how parentally placed nonpublic school students suspected of having a disability can participate equitably, including how parents, teachers and nonpublic school officials will be informed of the process.
- How the consultation process will operate throughout the school year to ensure that parentally placed nonpublic school students with disabilities identified through the child find process can meaningfully participate in special education and related services.

**PROVISION OF SPECIAL EDUCATION SERVICES**

- How, where and by whom special education and related services will be provided to such students, including a discussion of types of services, such as direct services and alternate service delivery mechanisms. For example:
  - a discussion of how services might be provided could include a discussion of scheduling for resource room services;
  - a discussion of where services might be provided could include a discussion of those services that would generally be provided onsite and offsite of the nonpublic school or the factors that would be considered in the determination of where services would be provided;
  - a discussion of who will provide services might include a discussion of services that will be provided by the public school district directly and others that may be provided through contract with another agency.
- For students who reside out-of-state but are parentally placed in nonpublic schools located in the geographic boundaries of the public school, how a proportionate share of federal IDEA Part B funds will be spent on special education services to such students.
- How, if the school district disagrees with the views of the nonpublic school officials on the provision of services or the types of services, whether provided directly or through a contract, the school district shall provide to the nonpublic school officials a written explanation of the reasons why the school district chose not to provide services directly or through a contract.

## **USE OF FEDERAL FUNDS**

- The determination of the proportionate amount of federal funds available to serve parentally placed nonpublic school students with disabilities, including the determination of how the amount was calculated.
- How such services will be apportioned if funds are insufficient to serve all parentally placed out-of-state resident students with disabilities and how and when these decisions will be made. (Note: For all NYS students, the school district must provide services pursuant to the student's IESP, regardless of the apportionment of federal funds. For students who are not New York residents who are parentally placed in NYS nonpublic schools, the school district would need to consult on how such students can participate equitably consistent with the federal proportionate share of IDEA funds.)

The nonpublic school representatives must provide written affirmation of their participation in the consultation process to the public school district of location. If the nonpublic school representative does not provide such affirmation within a reasonable period of time, the school district must forward the documentation of the consultation process to the State Education Department (SED).

## **CHILD FIND REQUIREMENTS**

The **school district of location** is responsible for child find for students who are parentally placed in nonpublic schools located in their geographic boundaries. Child find is the practical method the public school district will use to identify, locate and evaluate students suspected of having disabilities who are parentally placed in nonpublic schools.

- The child find activities must be similar to activities undertaken for students with disabilities in its public schools and must be completed in a time period comparable to that for other students attending public schools in the school district.
- Each public school district must consult with the nonpublic schools where students are parentally placed to determine an accurate count of students with disabilities attending such school and receiving special education services.
- The district of location must have procedures for conducting evaluations and reevaluations of students enrolled in nonpublic schools located within required timeframes and at no cost to parents.
- Unless the parent and district agree otherwise, the district of location must conduct a reevaluation at least once every three years of each eligible parentally placed nonpublic school student with a disability, even if the student is not currently receiving special education services. It is important that required reevaluations are conducted because they provide current data needed to determine the total number of eligible students which is used in calculating the proportionate share of funds that must be used on services.

## **PARENT CONSENT**

Federal regulation (34 CFR section 300.300) establishes specific parent consent requirements for parentally placed nonpublic school students, as follows:

Consent for sharing personally identifiable information regarding special education:

- If a student with a disability is parentally placed, or is going to be parentally placed in a nonpublic school that is not located in the school district where the student legally resides, parental consent must be obtained before any personally identifiable information about the student relating to special education is shared between officials in the public school district of location and officials in the public school district of residence. Therefore, parent consent is required before sharing individual evaluations, individualized education programs (IEPs), IESPs or Service Plans and other special education records between the district of location and the district of residence.

Consent for initial evaluations and reevaluations:

- If a parent who has placed a student with a disability in a nonpublic school at his/her own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the school district may not use the consent override procedures described in 34 CFR sections 300.300(a)(3) and (c)(1) and the school district is not required to consider the student as eligible for special education services under 34 CFR sections 300.132 through 300.144.

**Note:** There is no federal or state requirement for parental consent to share information between the school district of location and the nonpublic school the student intends to enroll in or is enrolled in.

**FOR STUDENTS WHO ARE RESIDENTS OF NYS,  
THE FOLLOWING REQUIREMENTS APPLY:**

**DEVELOPMENT OF THE IESP**

- The CSE of the district of location must develop an IESP for students with disabilities who are NYS residents and who are enrolled by their parents in nonpublic elementary and secondary schools located in the geographic boundaries of the public school.
- The IESP must be developed in the same manner and with the same contents as an IEP is developed.
- The CSE must ensure that a representative of the nonpublic school where the student attends is included in the meeting where the IESP is developed. If the representative cannot attend, the school district must use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls.
- The IESP must be reviewed periodically, but not less than annually.

**PARENT REQUEST FOR SPECIAL EDUCATION SERVICES**

- The parent must request special education services in writing to the school district of location by June 1 preceding the school year for which the request is made and prior to the first day of April of such current school year, the parent must submit the written request for services within 30 days after the student was first identified.

**PROVISION OF SPECIAL EDUCATION SERVICES**

- The school district of location is responsible to provide special education services pursuant to the IESP developed for each eligible student. Services must be provided on an equitable basis as compared to other students with disabilities attending public or nonpublic schools located within the school district.
- The manner (how, where and by whom) special education and related services will be provided to students is determined by the district of location based on the consultation process and in consideration of the individual needs of the student. The final decision with respect to services provided to individual students is made by the CSE of the district of location. Services provided to parentally placed students may be provided on the site of the private school or at another location.

**FOR OUT-OF-STATE STUDENTS WITH DISABILITIES PARENTALLY PLACED IN NONPUBLIC SCHOOLS LOCATED IN NYS, THE FOLLOWING REQUIREMENTS APPLY:**

**CHILD FIND**

A school district in which nonpublic elementary schools and secondary schools are located must, in carrying out its child find requirements, include parentally placed nonpublic school children who reside in a state other than the state in which the nonpublic schools that they attend are located (34 CFR section 300.131(f)).

The school district of location must evaluate an out-of-state parentally placed student suspected of having a disability. Pursuant to federal requirements, the cost of the evaluation, cannot be billed to the district of residence or the state where the student legally resides, nor can the federal Part B proportionate share of dollars be used for child find, including evaluations.

**PARENT REQUEST FOR SERVICES**

The June 1 date to request services does not apply to residents of another state who are parentally placed in a nonpublic school located in NYS.

**SERVICES PLAN**

The school district of location is obligated to provide special education services to an eligible student who legally resides in another state and is parentally placed in a nonpublic school located in NYS only to the extent that such services provide the student equitable participation in the services funded with federal IDEA funds. The services to be provided to out-of-state students must be documented on a Services Plan that is developed by the CSE of the district of location. The Services Plan is the written plan that describes the specific special education and related services that the district of location will provide to the student, consistent with the services that the school district of location has determined through the consultation process to be provided to such students **in relation to the proportionate share of federal IDEA Part B dollars.**

The Services Plan must, to the extent appropriate, be developed, reviewed and revised by the CSE of school district of location consistent with the requirements for development of an IEP. The parent(s) of the student must be invited to the meeting and the district of location must also ensure that a representative of the nonpublic school where the student attends be included in the meeting where the services plan is developed. If the nonpublic school representative cannot attend, the school district must use other methods to ensure participation by the nonpublic school, including individual or conference telephone calls. The Service Plan must be reviewed periodically, but not less than annually.

## **DUE PROCESS**

A parent of an out-of-state student suspected of having a disability has the right to mediation or an impartial hearing for disputes regarding evaluations and an eligibility determination. Since out-of-state resident students have no individual right to services, there is no right to mediation or an impartial hearing for disputes regarding services.

## **COSTS FOR SERVICES**

The provision of services to out-of-state students is limited to services based on a proportionate share of federal IDEA funds. Federal law provides no mechanism for interstate billing.

## **REGISTER OF PUPILS WITH DISABILITIES**

Pupil Personnel staff has been trained to record the following data on each pupil:

- (a) pupil's name , address, and birthdate;
- (b) pupil's parents' names, address(es), and the dominant language of the pupil's home;
- (c) pupil's suspected disability condition;
- (d) dates of referral, evaluations, recommendations of the Committee on Preschool Special Education and Committee on Special Education, actual placement, and annual program reviews;
- (e) site where the pupil is currently receiving an educational program;
- (f) other student information as required by the Individuals with Disabilities Education Act and federal regulations, including but not limited to the student's race, ethnicity, limited English proficiency status, gender and disability category; and
- (g) if the pupil is not receiving an appropriate education, the reason shall be described.

The above information is gathered from the following respective sites:

- (a) registration form
- (b) referral form and social history form
- (c) CSE recommendation
- (d) child's confidential folder
- (e) CSE minutes to Board of Education
- (f) CPSE minutes to Board of Education

This information is maintained within the computer-based data base which is part of an information management system called IEP Direct.com. This system has the ability to generate all the information in the required registry.

## **SPACE ALLOCATION FOR SPECIAL EDUCATION PROGRAMS**

It is the policy and practice of the Board of Education of the 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 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.

Further, it is the policy and practice of the Board of Education to ensure, to the fullest extent possible, that appropriate space will be available to meet the needs of resident students with disabilities who attend special education programs provided by the Board of Cooperative Educational Services (BOCES). At least once per year, a staff member from the district's Pupil Personnel 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 including staff reports, interviews with faculty, parents and students, departmental meetings and site visits, formative 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 of programs, services and procedures.

The goal of the special education program in the district is to provide each youngster with individualized instruction designed to help each student compensate for his or her disability in order to more fully reach his or 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 pupil achievement using various standardized diagnostic tests and other teacher-made assessments;
- annual reviews of students' progress and programs, resulting in revised comprehensive IEPs;
- qualitative techniques such as teacher observations and conferences, classroom observations, anecdotal reports, and end-of-year student summaries;
- reevaluation of each pupil with a disability as outlined in NYCRR 200.4 (f)(4); and
- updates to the District Plan as needed.

## **PLAN TO ENSURE AVAILABILITY OF INSTRUCTIONAL MATERIALS IN ALTERNATIVE FORMATS**

Section 200.2 of the Regulations of the Commissioner requires the Board of Education to establish a plan to ensure that every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students. "Alternative format" is defined to mean any medium or format for the presentation of instructional materials, other than traditional print textbooks, that is needed as an accommodation for a disabled student enrolled in the school district. It may include, but not be limited to, Braille, large print, open and closed caption audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

Information on accessible formats can be accessed at the NYSED office of Special Education website that was created to assist districts in their search for accessible instructional materials (AIM): <http://www.nimac.us>

### **IDENTIFICATION OF THE NEEDS OF STUDENTS RESIDING IN THE DISTRICT**

Advance planning in the selection and ordering of books will help ensure that students with disabilities receive their instructional materials at the same time as the other students in the class.

If the CSE determines that a student needs his or her instructional materials in an alternative format, the IEP will specify the accommodations for the individual student and any related instruction and/or assistive technology devices needed for the student to access the alternative format materials. If the student needs instructional and assessment materials in alternative formats, the CSE should review the following considerations:

- What alternative format is needed?
- What instruction is needed for the student to use the alternative format materials?
- What assessment technology devices or services are needed for the student to access the alternative format materials?
- What supports for school personnel may be needed related to the alternative format(s) recommended?
- What assistance do the parents need to help them acquire skills necessary to support the child's use of the instructional materials and/or related assistive technology devices?
- What test accommodations might a student need related to the alternative formats?

### **ACCESS TO AND CONVERSION OF ELECTRONIC FILES**

Instructional materials provided in electronic files can offer many flexible options for a student with a disability to access the curriculum when the files are used with a variety of technology and tools such as computer screens using highlighted and enlarged text,

screen readers or Braille printers. Students will have access to appropriate software and hardware in order to provide these materials in an alternative format. This would include, but not be limited to, computers, printers, scanners, alternative keyboards, Braille note takers, tape recorders, screen readers, speaking browsers, screen magnification devices, scan and read, and Braille translation. The district will also access appropriate agencies and resource centers to assist in the conversion of materials into Braille format.

### **ORDERING TIMELINES**

Braille and large-type booklets will be obtained from the State Education Department for the Elementary and Intermediate State assessments and each Regents and Regents Competency Examination. The Braille and large-type test booklets requested will be included in the regular shipment to the school. These tests will be ordered at the same time that tests are ordered for non-disabled students. If reproduction and/or reformatting of test booklets is required, written advance permission of the State Education Department will be obtained in sufficient time as to administer the test at the same time as administered to non-disabled students. If Braille or large-print conversions are requested, the district will request this conversion at least three months in advance of the exam.

The district will inquire of publisher sales representatives about available formats. If the instructional materials needed by the student cannot be purchased in alternative formats, the district will make reasonable efforts to adapt or convert the materials or provide substantially equivalent materials to the student in a format he or she can access. Consideration will be given as to sufficient time to convert these materials so that the student will be able to participate and progress in the general education curriculum.

### **SELECTION AND PROCUREMENT OF INSTRUCTIONAL MATERIALS**

The district utilizes a textbook selection committee when considering the purchase of new textbooks or materials. The committee will be informed of the need to give preference to those vendors who agree to provide materials in alternative formats.

When the district selects any new instructional materials for a course, consideration will be given, as one factor, if such materials are available from the vendor in the alternative format(s) needed by the student. Where different textbooks meet the district's criteria for a particular subject matter, the district will give preference to the vendor that agrees to provide materials in alternative formats. If competitive bidding is required for the purchase of instructional material, bid specifications will be drafted to allow the district to select the bidder who can provide materials in alternative formats in a timely fashion by making alternative format availability a specification of the bid.

## **PROCEDURES FOR NEW ENTRANTS DURING THE SCHOOL YEAR**

When a new student enters the district, the CSE will review the student's previous IEP to determine if the IEP has specified the need for materials to be provided in an alternative format. If the IEP indicates that the student requires an alternative format, the district will immediately either provide the necessary software or hardware necessary for the conversion or contact the appropriate agency to either purchase or convert the materials. If a student requires additional materials in an alternative format, the special education teacher or school psychologist will be responsible for providing this information to the Director of Pupil Personnel Services, who will be responsible for arranging the provision of materials in an alternative format.

## **PROCEDURES REGARDING ADDITIONAL BOOKS FOR SPECIAL EDUCATION STUDENTS**

If electronic format is unavailable there may be specific classified students who may require a second set of textbooks as per their IEPs. In discussions with school psychologists, guidance counselors, and special education teachers, the following criteria will be followed when recommending that a student receive a second set of textbooks:

- The notation for extra books or electronic access must be specified on the student's IEP as recommended by the Committee on Special Education. This need will be reviewed on an individual basis.

## **PROCEDURES FOR APPLYING FOR ADDITIONAL SET OF BOOKS FOR GENERAL EDUCATION STUDENTS**

- Parent must submit a written request to Pupil Personnel Office.
- Medical documentation must accompany the request.
- Pupil Personnel Services will submit form to school district physician, whom may need to contact the student's private physician.
- Parent will be contacted as soon as determination is made.

## **STUDENT TRACKING SAFETY DEVICES**

Student Tracking Safety Devices is a GPS and voice monitoring mobile device such as AngelSense. A parent shall obtain written approval from the principal before operating a student-tracking safety device with recording or listening-in capability at school or at a school-sponsored event. Because of student privacy concerns, the District requires listen-in technology to be disabled while the device is on school grounds or at school-sponsored events. The District prohibits unauthorized audio or visual recordings or transmission of audio or images of other students. 5695

**SECTION 10**

**DISTRICT PROGRAMS**

## **SCHOOL-AGED SPECIAL EDUCATION**

The Plainview-Old Bethpage Central School District operates a variety of programs and services for youngsters who possess disabilities. These services are provided to district residents at no cost and in the least restrictive environment upon the recommendation of the Plainview-Old Bethpage Committee on Special Education and with the approval of the Board of Education.

These services are available to pupils with disabilities through the school year during which their 21st birthday occurs, or until a regular high school diploma has been attained, whichever shall occur first.

A description of each of the Special Education Program options prioritized from least restrictive to more restrictive follows.

## **DECLASSIFICATION SUPPORT SERVICES**

Declassification support services are services provided to students and their teachers to assist the students when they are ready to move from special education programs and services to full-time regular education. The services that may be offered to the student include psychological services, social work services, non-career counseling, and other appropriate support services. In addition, services may be provided to the student's teachers in regular education in order to assist the student.

## **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 regular education classes. 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 educational program (IEP). Consultant teacher direct means services provided to the student in the general education classroom. Consultant teacher services shall be provided in accordance with the following provisions:

- (1) The total number of students with disabilities assigned to a consultant teacher shall not exceed 20.
- (2) 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.

## **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, psychological services, physical therapy, occupational therapy, counseling services as defined by regulation, parent counseling and training, school health services, school social work, hearing services, assistive technology services, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services. The CSE will recommend any related service that is appropriate to a youngster's individual needs.

## **RESOURCE ROOM PROGRAMS**

A resource room program provides specialized supplementary instruction in an individual or small group setting. Supplemental instruction for students with disabilities through the resource room program must be provided for a minimum of three hours per week. The resource room program may supplement instruction in regular or special education classes for up to 50 percent of the instructional day. Instructional groups in the resource room cannot be larger than five students and must be composed of students with similar academic, social, physical, and management needs.

## **INTEGRATED CO-TEACHING MODEL**

Integrated co-teaching services means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students provided by both a general education teacher and a special education teacher.

## **SPECIAL CLASS INSTRUCTION**

Special class instruction must be provided on a daily basis as indicated in the IEP. The regulations require that students be grouped together for special class instruction based on the similarity of their needs. They may have the same educational disability or differing disabilities, but their individual instructional needs must be similar. Grouping by needs is based on levels of academic or educational achievement and learning rate, levels of physical and social development, and the management needs of the students in the classroom.

## **BOCES**

Board of Cooperative Education Services (BOCES) provide a variety of occupational, academic and special educational programs and services. Local public schools may contract with BOCES to provide programs or services not offered in the local school district. BOCES supervised programs may be located in a Central BOCES facility and/or may be housed in local public schools.

## **SPECIAL DAY SCHOOL/RESIDENTIAL**

Some students with disabilities cannot be adequately served in public schools and, therefore, must be provided programs within private schools. School districts may place these students in private schools, special act schools, or Children's Residential Project programs approved by the State Education Department that meet the student's specific needs. These schools may be located in state or out of state and may have day and/or residential components.

## **HOME INSTRUCTION**

Some students with disabilities need temporary instruction at home or in a hospital setting due to severe illness or special circumstances indicated on the IEP. Instruction must be for a minimum of five hours per week at the elementary level and ten hours per week at the secondary level. The instruction program provided, as with any student with a disability, should be appropriate for the student's needs and reviewed as necessary. Because home and hospital instruction are highly restrictive, the continuing need for such services should be assessed frequently.

## SUMMARY OF DISTRICT DAY PROGRAMS

<u>PROGRAM TITLE</u>	<u>DESCRIPTION</u>
Consultant Teacher	Minimum of two (2) hours of service per week given to the student and/or mainstream teachers to support the student in the mainstream. Services can be either direct or indirect. Consult teacher services are provided to students in the general education classroom.
Resource Room	Minimum of three (3) hours per week of personalized instruction and support. Consultant teacher and resource room may be combined to meet the minimum level of service requirement. The combination of such service is at least three hours per week.
Integrated Co-Teaching	Academic content classes that are geared to provide assistance to students with disabilities in regular education classes. Classes are taught by a general education teacher and a special education teacher. Classes may also have the support of an additional skills period to reinforce the curriculum.
Special Class	Up to full-day special class for students requiring specially designed instruction.

NOTE: Opportunities for mainstreaming are provided in all programs on an individual basis as appropriate.

<b>PPS BUDGET</b>		
<b>Budget Account</b>	<b>Description</b>	<b>2019-2020 Appropriation</b>
2021-430-53-00-00	Conference & Travel	\$3,600.00
2021-502-53-00-00	Supplies-Office	\$9,058.00
2021-590-00-53-00	Equipment under \$1,000	\$3000.00
2110-473-00-53-00	Charter School Tuition	\$18,541.00
2110-474-53-00-00	Tuition Pd to NYS Pub Sch	\$31,459.00
2250-200-53-00-00	Technology Equipment	\$16,500.00
2250-400-53-00-00	ABA SERVICES	\$168,626.25
2250-412-53-00-00	Contractual Equip. Repair	\$15,000.00
2250-449-53-00-00	Contractual and Other	\$95,681.79
2250-470-53-00-00	Related Services	\$288,160.00
2250-471-53-00-00	Tuition Pd to NYS Pub Sch	\$398,099.00
2250-472-53-00-00	Tuition - All other	\$1,431,310.12
2250-475-53-00-00	Contractual Stipulated	\$594,725.00
2250-481-53-00-00	Textbooks	\$14,162.70
2250-492-53-00-00	BOCES -TUITION SPEC ED	\$2,124,840.00
2250-520-53-00-00	Supplies - Instructional	\$28,439.18
2250-590-53-00-00	Equipment under \$1,000	\$26,300.00
2253-444-53-00-00	Contractual and Other	\$68,083.00
2810-414-53-00-00	Special Education Testing	\$36,605.00
2815-200-53-00-00	Technology Equipment	\$1000.00
2815-260-53-00-00	Equipment	\$2000.00
2815-440-53-00-00	Contractual and Other	\$173,600.00
2815-444-53-00-00	Contractual and Other	\$420,220.00
2815-494-53-00-00	BOCES HEALTH SERVICES	\$208,000.00
2816-555-53-00-00	Supplies - Speech	\$550.00
2820-469-53-00-00	Consultants	\$23,000.00
2820-556-53-00-00	Supplies - Psychological	\$8,500.00
2825-520-53-00-00	Supplies - Instructional	\$500.00

**\$6,193,560.04**

**DISTRIBUTION OF SCHOOL AGE STUDENTS IN OUT-OF-DISTRICT  
PLACEMENTS AS OF  
OCTOBER 2, 2020**

<b>PUBLIC SCHOOLS OTHER THAN BOCES</b>	
Great Neck UFSD	2
Herricks UFSD	1
Rockville Centre School District	1
<b>NASSAU BOCES – CENTER BASED PROGRAMS</b>	
Carman Road School	4
Iris Wolfson High School	2
Rosemary Kennedy Center	2
Williams Middle School	1
CCA NET I, II, III	4
Jerusalem Avenue	1
Career Prep	1
Western Suffolk BOCES	1
<b>PRIVATE SCHOOLS - DAY</b>	
Brookville Center of Children’s Services AHRC	6
Developmental Disabilities Institute	2
Harmony Heights	3
Hagedorn Little Village	1
Summit School	3
Children’s Learning Center @ UCP	1
Churchill School	1
<b>PRIVATE SCHOOLS - RESIDENTIAL</b>	
Anderson Center for Autism	1
Developmental Disabilities Institute	1
Little Flower	1
<b>4201 SCHOOLS – STATE – OPERATED/SUPPORTED</b>	
Henry Viscardi School	1

**EDUCATIONAL PLACEMENT OF PRESCHOOL STUDENTS WITH DISABILITIES  
AS OF OCTOBER 7, 2020**

**October 2020 Snapshot**

**Preschool LRE Setting Report**

Educational Environment		A	B	C
		Age 3	Age 4	Total # of Students Ages 3-4 (Oct. 7, 2020)
Attending a regular early childhood program for <b>10 or more hours</b> a week	and receiving the majority of hours of special education and related services in the regular early childhood program	4	3	7
	and receiving the majority of hours of special education and related services in some other location.	3	6	9
Attending a regular early childhood program for <b>less than 10 hours</b> a week	and receiving the majority of hours of special education and related services in the regular early childhood program	2	4	6
	and receiving the majority of hours of special education and related services in some other location	5	5	10
Separate Class		9	1	10
Separate School		6	6	12
Residential Facility		0	0	0
Home		0	2	2
Service Providers Location		1	1	2
<b>Total</b>		30	28	58

**SCHOOL-AGE STUDENTS WITH DISABILITIES RECEIVING SPECIAL  
EDUCATION SERVICES  
on OCTOBER 7, 2020  
OCTOBER 2020 SNAPSHOT**

Line Number	Disability (As of Snapshot Date)	Age as of October 7, 2020					Grand Total for 2019
		Total Ages 4-5	Total Ages 6-11	Total Ages 12-13	Total Ages 14-17	Total Ages 18-21	
1	Autism	4	52	8	19	7	90
2	Emotional Disturbance	0	2	5	19	1	27
3	Learning Disability	0	51	43	56	1	151
4	Intellectual Disability	0	2	3	5	2	12
5	Deafness	0	2	0	0	0	2
6	Hearing Impairment	0	5	1	8	0	14
7	Speech or Language Impairment	25	101	13	8	1	148
8	Visual Impairment (Includes Blindness)	0	1	0	1	0	2
9	Orthopedic Impairment	0	1	0	2	0	3
10	Other Health Impairment	12	92	58	111	4	277
11	Multiple Disabilities	1	1	2	2	3	9
12	Deaf-Blindness	0	0	0	0	0	0
13	Traumatic Brain Injury	0	0	0	0	0	0
	<i>Total (Lines 1-13)</i>	42	310	133	231	19	735

## **AVAILABILITY OF THIS POLICY**

The current Special Education District Plan is on file and available for review in the Office of Superintendent of Schools, the Office of Pupil Personnel Services, and at each of the districts public school buildings. The Special Education District Plan may also be viewed on the district's website at [www.pobschools.org](http://www.pobschools.org). A parent may request and receive a copy of the policy from the school district at any time. Requests should be made through the Office of Pupil Personnel Services.

Book: Policy Manual

**Section 4000: Instruction**

**Title: Programs for Students with Disabilities Under the Idea and New York's Education Law**

**Article 89**

**Code:4321**

Status: Active

Adopted: January 6, 2020

The Board of Education shall make available a free appropriate public education to all students with disabilities who reside within its district and are eligible for special education and related services under the Individuals with Disabilities Education Act and Article 89 of New York's Education Law, and their implementing regulations. Special education and related services will be provided to resident eligible students with disabilities in conformity with their individualized education program (IEP) and in the least restrictive environment appropriate to meet their individual educational needs. Special education services or programs will be designed to enable a student with disabilities to be involved in and progress in the general education curriculum, to the extent appropriate to his/her needs.

The Board also shall make available special education and related services to eligible students with disabilities parentally placed in a nonpublic school located within the district, regardless of whether they are residents of the district. However, this obligation does not extend to resident students with disabilities who are placed by their parents in a nonpublic school within district boundaries because of a disagreement between the parents and the school district over the provision of a free appropriate public education. Nonpublic school students with disabilities who are not district residents but who reside within New York State will be provided programs and services in accordance with their individualized education services program (IESP). Nonpublic school students with disabilities who reside out-of-state will be provided services in accordance with their services plan (SP). (Refer to policy 4321.10, Programs and Services for Parentally-placed Nonpublic School Students with Disabilities under the IDEA and New York's Education Law Article 89 for more guidance on this topic).

In addition, to the maximum extent appropriate to their individual needs, eligible students with disabilities residing within the district and attending the district's public schools will be entitled to participate in school district academic, cocurricular and extracurricular activities available to all other students enrolled in the district's public schools. Such cocurricular and extracurricular activities may include athletics, transportation, recreational activities, school-sponsored special interest groups or clubs, and referrals to agencies that provide assistance to individuals with disabilities and the employment of students (including both employment by the school district and assistance in making outside employment available).

In providing a free appropriate public education to students with disabilities eligible under the IDEA and Article 89, the Board will afford the students and their parents the procedural safeguard rights they are entitled to under applicable law and regulations. The Board also will provide them with notice of such rights as required by law and regulation, using the form prescribed by the commissioner of education.

For purposes of this policy and others related to the provision of services to eligible students with disabilities, and consistent with applicable law and regulation, the word parent means a birth or adoptive parent, a legally appointed guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child; a person in parental relationship to the child as defined in section 3212 of the Education Law; an individual designated as a person in parental relation pursuant to title 15-A of the General Obligations Law, including an individual so designated who is acting in the place of a birth or adoptive parent (including a grandparent, stepparent, or other relative with whom the child resides; or a surrogate parent who has been appointed in accordance with commissioner's regulations.

Eligible students with disabilities will be entitled to special education and related services until the end of the school year in which they turn 21 or until they receive a local high school or Regents diploma.

Students with disabilities may not be required to take medication as a condition for receiving a free appropriate public education.

To ensure the provision of a free appropriate public education to all eligible students with disabilities:

1. The Board will adopt and maintain a district special education services plan in conformance with Commissioner's Regulations (8NYCRR 200.2(c)). The plan will be available for public inspection and review by the Commissioner of Education.
2. School district staff will take steps to locate, identify, evaluate and maintain information about all children with disabilities within the district, including homeless children and children who are wards of the state, and children attending nonpublic school within the district (including religious schools), who are in need of special education.
3. The district will establish a plan and practice for implementing school-wide approaches and interventions in order to remediate a student's performance prior to referral for special education services. The district will provide general education support services, instructional modifications, and/or alternative program options to address a student's performance before referring the student to the Committee on Special Education (CSE). The RTI, IST or CST teams will develop, implement and evaluate pre-referral intervention strategies (4321.2, School-wide Pre-referral Approaches and Interventions).
4. School district staff will initiate a request for evaluation of a student who has not made adequate progress after an appropriate period of time when provided instruction under a response to intervention program. In making the request the staff person will describe in writing intervention services, programs and methodologies used to remediate the student's performance prior to referral. In addition, the extent of parental contact will be described as well.
5. The Board will appoint a committee on special education (CSE), and, as appropriate, CSE subcommittees, to assure the timely identification, evaluation and placement of eligible students with disabilities.
6. The Board will arrange for special education programs and services based upon the recommendation of the CSE or CSE subcommittee.
7. The Superintendent shall establish a plan for the recruitment, hiring and retention of staff appropriately and adequately prepared to meet the needs of students with disabilities including, but not limited to, highly qualified special education teachers.
8. The Superintendent shall establish a comprehensive professional development plan designed to ensure that personnel necessary to carry out IDEA and Article 89 possess the skills and knowledge required to meet the needs of students with disabilities.
9. The Superintendent will establish a process for ensuring that district staff understand the right of students with disabilities to access and participate in the same academic, cocurricular and extracurricular programs and activities as all other students enrolled in the district's public schools, to the maximum extent appropriate to their individual needs.

### **Locate and Identify Students with Disabilities**

The district will maintain an annual census that locates and identifies all students with disabilities who reside in the district and establish a register of such students who are entitled to attend the public schools of the district during the next school year, including students with disabilities who are homeless or wards of the State. The census shall be conducted, and the registry maintained, in accordance with the requirements established in Commissioner's regulations.

The Superintendent will determine what other activities might be appropriate to help locate and identify students with disabilities. These may include, but are not limited to, the mailing of letters to all district residents regarding the availability of special education programs and services and their right to access such services, and/or the publication of a similar notice in school newsletters and other publications.

## **Evaluation of Students with Disabilities**

To initially determine a student's eligibility for a free appropriate public education under the IDEA and Article 89, the district will conduct a full evaluation of the student in accordance within legally prescribed time lines. As set forth in Commissioner's regulations, the initial evaluation will include, at least, a physical examination, an individual psychological evaluation unless the school psychologist determines it unnecessary, a social history, an observation of the student in the student's learning environment to document the student's academic performance and behavior in the areas of difficulty, and other appropriate assessments or evaluations (including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others) to ascertain the physical, mental, behavioral and emotional factors that contribute to the suspected disabilities.

Once a student has been determined eligible to receive a free appropriate public education, the district will reevaluate the student with a disability whenever the student's parent requests a reevaluation, and when the district determines the educational and related services needs (including improved academic achievement and functional performance) of the child warrant a reevaluation. However, a reevaluation must take place at least once every three years, unless the student's parent and the district agree it is unnecessary.

## **Parental Consent for Student Evaluations**

Before conducting any type of evaluation, district staff will take steps to obtain written informed consent from a student's parent, as required by applicable law and regulations. They also will keep a detailed record of those attempts and their results, including phone calls and correspondence, visits to the parent's home and any responses received.

1. If a parent refuses to give consent for an initial evaluation, or fails to respond to such a request, the parent will be given an opportunity to attend an informal conference and ask questions about the proposed evaluation. Unless the referral for evaluation is withdrawn, if the parent continues to withhold consent, the Board will commence due process proceedings to conduct an initial evaluation without parental consent within the time lines established in Commissioner's regulations.
2. If a parent refuses to give consent for a reevaluation, or fails to respond to such a request, district staff will proceed with the reevaluation without parental consent if it has engaged in documented reasonable efforts to obtain such consent and the parent has failed to respond. If the district cannot document its efforts to obtain consent, the Board will commence due process proceedings to conduct a reevaluation without parental consent.
3. If district staff is unable to obtain consent for the initial evaluation or reevaluation of a home schooled or a parentally-placed nonpublic school student, the Board will not commence due process proceedings to conduct the evaluation without parental consent and will consider the student as not eligible for special education.

## **Conduct of Evaluations**

In conducting evaluations of students with disabilities, the district will use a variety of assessment tools and strategies, including parent-provided information, to gather relevant functional, developmental, and academic information for determining a student's eligibility for special education and related services, and the content of the student's individualized education program or individualized education services program or services plan in the case of nonpublic school students with disabilities (including information related to enabling the student to be involved in and progress in the general education curriculum).

The district also will assess a student in all areas of suspected disability, and the assessment and other evaluation used will not be discriminatory on a racial or cultural basis. In addition, students will be assessed in the language and form most likely to yield accurate information on what the student actually knows and can do academically, developmentally, and functionally, unless it is not feasible to do so.

In the case of students suspected of having a specific learning disability, the district will follow the procedures established in commissioner's regulations.

The district will notify a student's parent of any determination that no additional data is needed and the reasons for such a determination. It will also inform the parent of his or her right to request an assessment, notwithstanding that determination.

### **Eligibility Determination**

The CSE or CSE subcommittee will determine whether a student is eligible for special education and related services under the IDEA and Article 89, as well as the student's educational needs.

The CSE or CSE subcommittee may not determine that a student is eligible for special education and related services if the determining factor is lack of appropriate instruction in the essential components of reading, including phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies; or lack of appropriate instruction in math; or limited English proficiency.

### **Committee on Special Education**

The members of the CSE and CSE subcommittees will include those individuals identified in applicable law and regulations, and their attendance at CSE and CSE subcommittee meetings will be required except as otherwise provided in law and regulations.

The parent of a student with disabilities is one of the mandated CSE and CSE subcommittee members and as such has a right to participate in CSE and CSE subcommittee meetings concerning the identification, evaluation, educational placement, and the provision of a free appropriate public education to their child. District staff will take steps to ensure the parent's participation, in accordance with the following:

1. CSE and CSE subcommittee meetings will be scheduled at a time and place that is mutually agreeable to the parent and the district.
2. The parent will be given at least five days notice of the time and place of a CSE or CSE subcommittee meeting, except as otherwise provided in law and regulation, along with notice of the purpose of the meeting, those who will attend (including name and title), and the parent's right to be accompanied to the meeting by person(s) the parent considers to have knowledge and special expertise about their child.
3. The parent and the district may agree to use alternative means of participation at CSE meetings, such as videoconferences or telephone conference calls.
4. District staff will take any action necessary to ensure that the parent understands the proceedings at CSE meetings, including arranging for an interpreter for deaf parents or parents whose native language is other than English.

The CSE or CSE subcommittee may meet without a student's parent only if district staff has been unable to obtain either parent's participation and has a record of its attempts to arrange a mutually agreed upon time and place. Similarly, the CSE or CSE subcommittee may make a decision without the involvement of the student's parent only if district staff has been unable to obtain parental participation, even through the use of alternative means of participation, and has a record of its attempts to ensure parental involvement.

### **Provision of Services**

The Board will arrange for appropriate special education and related services recommended by the CSE or CSE subcommittee within 60 school days of the district's receipt of parental consent to evaluate a

student not previously identified as a student with a disability, or within 60 school days of referral for review of a student with a disability, except as otherwise provided in law and regulations.

All staff responsible for the implementation of a student's individualized education program, or an individualized education services program or services plan in the case of parentally placed nonpublic school students with disabilities, will be provided information regarding those responsibilities (Refer to policy 4321.5 for more information on this topic).

### **Parental Consent for the Provision of Services**

Therefore, district staff will take steps to obtain written consent. The Board acknowledges that parental consent for initial evaluation does not constitute consent for placement for the provision of special education and related services informed consent for the initial provision of special education and related services to an eligible student. The Board will be precluded by applicable law and regulations from commencing due process proceedings to override the parent's refusal to provide such consent or override the parent's failure to respond to such a request.

### **Transition Service and Diploma/Credential Options**

In accordance with law and regulation, the Board will ensure the provision of transition services, which are a coordinated set of activities for students with disabilities that facilitates movement from school to post-school activities, which may include but are not limited to post-secondary education, vocational education, integrated employment, continuing and adult education, adult services, independent living or community participation. At age 15, or younger if appropriate, the student's IEP will include a statement of transition service needs and will include undertaking 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.

In developing the plan for transition services, students and parents will be made aware of the range of diploma and credential options available and the requirements associated with each option.

Adoption date: January 6, 2020

#### **Legal References:**

The Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 *et seq.*; 34 CFR Part 300  
N.Y. Education Law Article 89, §§4401 *et seq.*  
8 NYCRR Part 200

#### **Cross-References:**

1900, Parental Involvement (Title I)  
4000, Student Learning Objectives and District Instructional Goals  
4773, Diploma and Credential Options for Students with Disabilities  
5500, Student Records  
6700, Purchasing  
9700, Staff Development

Book: Policy Manual

**Section 4000: Instruction**

**Title: Provision of Special Education Services in the Least Restrictive Environment**

**Code: 4321.1**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes its responsibility to ensure that students with disabilities eligible for special education programs and services under the IDEA and Article 89 of New York's Education Law receive those services in the least restrictive environment appropriate to meet their individual educational needs.

Therefore, the district will not place students with disabilities in special classes or separate schools, or otherwise remove them from the regular educational environment unless the nature or severity of their disability is such that their education cannot be achieved satisfactorily in regular classes, even with the use of supplementary aids and services. In addition, the district will provide special services or programs to enable students with disabilities to be involved in and progress in the general curriculum, to the extent appropriate to their needs.

To fulfill its responsibility to educate students with disabilities in the least restrictive environment, the district will implement the provisions of section 200.6 of commissioner's regulations.

Furthermore, and pursuant to those provisions, students with disabilities placed together for purposes of receiving special education will be grouped by similarity of individual needs including their range of academic achievement, functional performance and learning characteristics; social and physical development, and management needs.

The Superintendent will establish a process for ensuring that the CSE or CSE subcommittee Chairperson(s), as appropriate, obtains an up-to-date copy of those provisions at the beginning of each school year, and copies of any amendments that become effective during the school year.

The Board also recognizes that the least restrictive environment requirements established by applicable law and regulations also extend to nonacademic settings. Therefore, the district will provide students with disabilities the opportunity to participate with non-disabled students in school-sponsored cocurricular and extracurricular activities, to the maximum extent appropriate to each individual student's needs. The district also will provide students with disabilities with supplementary aids and services the CSE or CSE subcommittee, as applicable, determines to be appropriate and necessary for the students to participate in such activities.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.  
8 NYCRR §§200.2(b)(4); 200.6

Book: Policy Manual

**Section 4000: Instruction**

**Title: School-Wide Pre-Referral Approaches and Interventions**

**Code: 4321.2**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes that the provision of academic and behavioral supports and targeted interventions for students who are not making academic progress at expected levels in the general curriculum may improve a student's performance and help avert the need for referral for possible classification as a student with a disability. Therefore, the district will implement on a school-wide basis practices appropriate to enable all of the district's students to succeed in the general education environment.

The Superintendent will identify and take steps to implement a variety of practices appropriate to comply with this policy. Consistent with applicable law and regulation, those practices may include, for example:

1. Providing early intervention services with funds available under the IDEA, which may be coordinated with similar activities conducted under the Elementary and Secondary Education Act. Such services would be made available to students not currently identified as needing special education and related services, but who need additional support to succeed in a general education setting. This may include professional development that enables teachers and other staff to deliver scientifically based academic instruction and behavioral interventions, such as scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive instructional software. It also may include educational and behavioral evaluations, services and supports.
2. Implementation of a response to intervention (RTI) program that includes the minimum requirements established by commissioner's regulations and allows teachers and other staff to determine whether a student responds to scientific, research-based instruction or requires interventions beyond those provided to all students in the general education classroom.
3. Implementation of a positive behavioral intervention and support (PBIS) system that reduces school and classroom behavioral problems and creates and maintains a safe and positive learning environment by promoting positive behavior in all students.

District implementation of any of the above practices will not impede or delay the appropriate evaluation of a student suspected of having a disability, and the student's right to a free appropriate public education.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act, 20 USC §§1413(f); 1414(b)(6)(B)  
34 CFR §§300.226; 300.307(a)(2)  
8 NYCRR §§100.2(ii); 200.2(b)(7)

**Cross-References:**

4000, Student Learning Standards and Instructional Guidelines  
4325, Academic Intervention Services

Book: Policy Manual

**Section 4000: Instruction**

**Title: Allocation of Space for Special Education Programs**

**Code: 4321.3**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes its responsibility to ensure that appropriate space is available for:

1. Special programs and services provided to meet the needs of students and preschool students with disabilities both within its own facilities, and in programs provided by the board of cooperative educational services (BOCES) and attended by district residents; and
2. Serving students with disabilities in settings with non-disabled peers, as well.

The district will address such space allocation needs as part of its annual budget cycle, during the annual or any more frequent re-evaluation of its long-range educational facilities plan, and as part of the district's special education services plan.

Through the Superintendent, the district also will share with the BOCES District Superintendent information relevant for the BOCES to determine the regional space needs for serving the district's resident students and preschool students with disabilities.

As part of the process for ensuring the allocation of appropriate space for special education programs and services and serving students with disabilities in settings with non-disabled peers, the Superintendent, in consultation with appropriate school personnel will, at a minimum:

1. Periodically gather information regarding the number of students and preschool students with disabilities presently participating and anticipated to continue to participate in the district's special education programs and services, the type of programming they presently receive and may receive in the future, as well as the setting in which those services are and/or will be provided.
2. Review the results of the district's latest census, and other district child find efforts, including child find activities conducted with respect to parentally-placed nonpublic school students with disabilities.
3. Anticipate any projected increase in the number of students and preschool students with disabilities the district will be responsible for providing special education programs and services to, the anticipated type of services they will be receiving and the settings in which those services will be provided.
4. Based on the above information, review current space capacity, and identify any additional space requirements to meet both current and future needs.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act (IDEA) 20 USC  
Education Law §§3602(10)  
8 NYCRR §§155.1(a); 200.2(c)(2)(iv), (v); 200.2(g)

**Cross-References:**

4321, Programs and Services for Students with Disabilities under the IDEA and New York's Education Law Article 89  
4321.10, Programs and Services for Parentally-Placed Nonpublic School Students with Disabilities under the IDEA and New York's Education Law Article 89

Book: Policy Manual  
**Section 4000: Instruction**  
**Title: Independent Educational Evaluations**  
**Code: 4321.4**  
Status: Active  
Adopted: January 6, 2020

The Board of Education recognizes the right of parents or guardians of a student who has or is thought to have a disability to receive an independent evaluation at public expense if they disagree with the evaluation obtained by the Committee on Special Education (CSE) or the Committee on Preschool Special Education (CPSE).

The independent examination shall be conducted by a qualified examiner who is not employed by the school district responsible for the child's education. Upon request, parents will be provided with a list of public and private agencies and professional resources where independent evaluations may be obtained. These publicly-funded independent evaluations shall be limited to the same geographic and fiscal limitations as used by the district when it initiates an evaluation.

The district has the right to initiate an impartial hearing to demonstrate that its evaluation is appropriate. If the hearing officer determines that the district's evaluation was appropriate, a parent or guardian is not entitled to reimbursement at public expense.

The Board directs the Superintendent of Schools to develop regulations establishing maximum allowable fees for specific tests, the geographic area in which such evaluations may take place, and minimum qualifications of the professionals who administer and interpret various tests.

Adoption date: January 6, 2020

**Legal References:**

20 USC §1415(d)(2)(A)

34 CFR §300.502

8 NYCRR §§200.1(z); 200.5(a); 200.5(b); 200.5(c); 200.5(g)

**Cross-References:**

4321, Programs for Students with Disabilities

Book: Policy Manual

**Section 4000: Instruction**

**Title: Confidentiality and Access to Individualized Education Programs, Individualized Education Services Programs and Service Plans**

**Code: 4321.5**

Status: Active

Adopted: January 6, 2020

Personally identifiable data will not be disclosed by any school district employee or member of a CSE/CPSE to any person (other than the parent of such student), organization or agency unless the parent or guardian of the child provides written consent; there is a valid court order for such. The Board of Education recognizes the importance of ensuring the confidentiality of personally identifiable data pertaining to a student with a disability. Information; or disclosure is permitted by law.

Personally identifiable data is defined in the policy on Student Records, 5500.

The Board of Education, while acknowledging the confidentiality requirement, believes that in order for each student with disabilities to receive the full benefit of his/her Individualized Education Program (IEP), Individualized Education Services Program (IESP) or Service Plan (SP), individuals responsible for implementing the program or plan must, prior to the implementation, fully understand the scope of their responsibility and the specific accommodations, modifications and supports to be provided.

IEP, IESP or SP shall be 's To this end, this policy establishes procedures to ensure that any person having both direct contact with a student with an IEP, IESP or SP and a responsibility to provide a service, accommodation or program modification for the student in accordance with that student informed of his/her responsibilities under the IEP, and shall receive or have access to a copy of the student's IEP, IESP or SP as specified below.

I. IEP, IESP or SP Copies

At a CSE, CSE Subcommittee or CPSE meeting for each student, a determination will be made as to which general education teachers, special education teachers, related service providers and other service providers have responsibility to implement the recommendations on the student's IEP, IESP or SP. "Other service provider" means a representative of another public school district, charter school, BOCES program, child care institution school, Special Act school district, State-supported school, approved private in-state or out-of-state school and an approved preschool provider where the student receives or will receive IEP, IESP or SP services.

The CSE, CSE Subcommittee and CPSE Chairpersons shall ensure that a paper or electronic copy of each student's IEP, IESP or SP is provided to each regular education teacher, special education teacher, related service provider and/or other service provider who is responsible for implementation of the program or plan. These individuals responsible for implementing an IEP, IESP or SP shall, in turn, ensure that all paraprofessionals (teacher aides and teacher assistants) and other providers responsible for assisting in implementation are given the opportunity to review their copy of the IEP, IESP or SP prior to program implementation as well as have ongoing access to such copy.

II. Notification of Responsibilities

disability and program to 's IEP, IESP or SP, CSE, CSE Subcommittee and CPSE Chairpersons must designate one or more professional employees of the district with knowledge of the student's In addition to disseminating copies of a student inform each regular education teacher, special education teacher, related service provider, other service provider, paraprofessional, and other provider and support staff person of his or her responsibility to provide specific accommodations, program modifications, supports and/or services for the student in accordance with the IEP, IESP or SP. In selecting the professional staff person(s), the chairperson could select him/herself for this responsibility, another administrator, or a teacher, related service

provider or other professional, as appropriate.

### III. Confidentiality

All copies of a student's IEP, IESP or SP provided or made accessible under this policy must remain confidential, and shall not be redisclosed to any other person, except in accordance with the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA). To ensure such confidentiality, the CSE and CPSE Chairpersons shall include with each IEP, IESP or SP copy provided or made accessible under this policy, a copy of the Board's policy on student records (Policy 5500). All IEP, IESP or SP copies must remain in a secure location on school grounds at all times. If IEP copies are transmitted and/or provided electronically, security systems (e.g., password protect a file or folder) must be implemented to prevent unauthorized internal and external access to the student's IEP, IESP or SP.

### IV. Documentation

The designated professional employee(s) defined in section II above shall obtain the signature of each person covered by this policy, indicating that he or she:

1. has received either a copy of the student's IEP, IESP or SP or the opportunity to review the IEP, IESP or SP prior to its implementation, as required under state law and regulation;
2. has been informed of their responsibilities for implementation;
3. has knowledge of where the IEP, IESP or SP is to be maintained; and
4. has an understanding of the confidentiality requirements.

At the end of the school year or whenever the IEP has been revised, the IEP will be destroyed.

Adoption date: January 6, 2020

#### **Legal References:**

Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.  
Family Educational Rights and Privacy Act (FERPA), 20 USC §1232g; 34 CFR Part 99  
Education Law §4402(7)  
8 NYCRR §§200.2(b)(11); 200.4(e)(3); 200.16(e)(6)  
[New York State Education Department, Office of Special Education, Guidance Document, Providing copies of the IEPs for Students with Disabilities, 5/13/03](#)

#### **Cross-References:**

4321, Programs for Students with Disabilities Under IDEA and Article 89  
5500, Student Records

Book: Policy Manual

**Section 4000: Instruction**

**Title: Availability of Alternative Format Instructional Materials for Students with Disabilities**

**Code:4321.6**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes its responsibility to ensure that all the instructional materials used in the district s schools are made available in a usable alternative format for students with disabilities in accordance with their individual educational needs and course selection at the same time as those materials are available to non-disabled students. In accordance with applicable law and regulations, any such alternative format procured by the district will meet the National Instructional Materials Accessibility Standard.

For purposes of this policy, alternative format will mean any medium or format for the presentation of instructional materials, other than a traditional print textbook, that is needed as an accommodation for a student with a disability enrolled in the school district, including but not limited to Braille, large print, open and closed captioned, audio, or an electronic file. An electronic file must be compatible with at least one alternative format conversion software program.

The Superintendent will develop a plan to ensure the availability of alternative format materials in accordance with the timeliness requirements of this policy. Such a plan will provide for:

1. Preference to vendors who agree to provide instructional materials in alternative formats, and to reflect this requirement in the bidding specifications used for the procurement of instructional materials. The same preference will be given to vendors of instructional materials ordered for the school library.
2. Consultation with appropriate school personnel regarding how students will access electronic files. The district s technology staff will be notified of any need to convert electronic files into an accessible format such as Braille, large print, audio, or alternative display.
3. The availability of hardware and/or software a student with disabilities in need of alternative format materials might require to access the instructional material.
4. The yearly review of the district s ordering timelines for the purchase of instructional materials to ensure sufficient lead time for obtaining needed alternative format materials.
5. Notification to appropriate school personnel by the CSE, CSE subcommittee, CPSE and Section 504 Committee Chairperson whenever it is determined that a student needs instructional materials in alternative format. Such notice also will identify the particular alternative format needed, and any assistive technology devices or services the student might need to access the alternative format materials.
6. Notification by classroom teachers of the books they will be using in class and any list of required readings with sufficient lead time in anticipation of the district s timelines for the purchase of instructional materials.
7. Consultation with the school librarian to make sure that specific library resources required by a student in need of alternative format materials to participate and progress in his or her selected courses are made available to the student in an accessible format.
8. Timely request of state assessments in alternative format.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act (IDEA), 20 USC §§1474(e)(3)(B)

Education Law §§1604(29-a); 1709(4-a) 1950(4-a); 2503(7-a); 2554(7-a); 3602(10)(b)

8 NYCRR §§200.2(b)(10)

State Education Department, Office of Special Education, Policy 02-05 Amendment to Section 200.2 of the Regulations of the Commissioner Implementing Chapter 377 of the Laws of 2001: Plans to Provide Instructional Materials in Alternative Formats for Students with Disabilities, May 2002, available electronically from the [SED website](#)

**Cross-References:**

6700, Purchasing

Book: Policy Manual

**Section 4000: Instruction**

**Title: Districtwide and Statewide Assessments of Students with Disabilities**

**Code: 4321.7**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes the importance of offering access and appropriate testing accommodations to eligible students so that they can participate in assessment programs on an equal basis with their nondisabled peers. Two elements that contribute to an effective assessment program are proper use of use of accommodations and use of universal design principles in developing and administering tests.

**Testing Accommodations**

Testing accommodations provide an opportunity for students with disabilities to:

- Participate in the instructional and assessment program;
- Demonstrate their strengths, knowledge and skills without being restricted by their disability; and
- Provide an accurate measure of the standards being assessed so that appropriate instruction and services can be provided.

Testing accommodations are changes made in the administration of the test in order to remove obstacles to the test-taking process that are presented by the disability without changing the constructs being tested. Examples of testing accommodations are: flexibility in scheduling/timing; flexibility in the setting for the administration of the test; changes in the method of presentation and changes in the method of response. Testing accommodations are neither intended nor permitted to: alter the construct being measured or invalidate the results, provide an unfair advantage for students with disabilities over students taking the test under standard conditions or substitute for knowledge or abilities that the student has not attained.

The Committee on Special Education, the Subcommittee on Special Education or the Committee on Preschool Special Education is responsible for recommending the appropriate test accommodations and including those recommendations on the student's Individualized Education Program (IEP), Individualized Education Services Program (IESP) or Service Plan (SP). If it is determined that a student should participate in alternative assessments instead of the standard statewide or districtwide tests, the CSE must indicate the reasons for doing so on the IEP, IESP or SP. The 504 multidisciplinary committee will include the appropriate test accommodations as part the 504 Plan.

The recommendations will be reviewed annually by the CSE, CSE subcommittee, CPSE or 504 team. The Board acknowledges the importance of integrating the assessment program with the instructional program and, to that end, encourages effective communication among district staff so that implementation is consistent and fair. The goal is to provide effective assessments that allow students to benefit from their educational program.

In some situations, a building principal may authorize the use of testing accommodations in accordance with this policy. Those instances are limited to cases where a regular education student incurs a disability, such as, but not limited to, a broken arm, without sufficient time for the CSE, CPSE and/or Section 504 Committee to make a recommendation prior to a test. They do not include cases where the student is already being evaluated to determine his or her eligibility for status as a student with a disability. In exercising this authority, the building principal will rely on his or her professional judgment. He or she also may confer with CSE, CPSE and/or Section 504 Committee members.

## **Universal Design Principles in Districtwide Assessments**

The Board of Education recognizes the benefits of using the principles of universal design to further the goal of ensuring equal access to districtwide assessments and to ensure the most accurate measure of the performance of all students. The Board directs the Superintendent, in consultation with appropriate school staff, to examine how universal design principles can be incorporated into the district's assessment program, and to facilitate its use to the extent feasible. Any steps taken in this regard will be consistent with this policy and applicable State Education Department policy and/or guidance on the use of universal design principles.

At a minimum, the Superintendent will explore how district assessments can be:

1. Made more usable by students with diverse abilities.
2. Designed to better accommodate a wide range of individual preferences and abilities.
3. Made more understandable.
4. Made to communicate necessary information to students more effectively.
5. Designed to minimize adverse consequences of accidental or unintended actions.
6. Used more efficiently and comfortably and with a minimum of student fatigue.

Adoption date: January 6, 2020

### **Legal References:**

Individuals with Disabilities Education Act (IDEA), 20 USC §§1401(35); 1412(a)(16)(E);  
34 CFR §§ 300.44  
Assistive Technology Act, 29 USC 3002(19)  
8 NYCRR §§ 200.1(jjj); 200.2(b) (13,14); 200.4(d)(2)(vi)

### **Cross-References:**

4321, Programs for Students with Disabilities  
4321.5, Confidentiality and Distribution of IEP, IESP and SP  
5020.3 Students with Disabilities and Section 504

Book: Policy Manual

**Section 4000: Instruction**

**Title: Impartial Hearing Officer Appointment and Compensation**

**Code: 4321.8**

Status: Active

Adopted: January 6, 2020

The Board of Education will appoint impartial hearing officers (IHO), as needed, to hear complaints regarding the identification, evaluation, or placement of students with disabilities, or the provision of a free appropriate public education to such a student in accordance with the rotational selection process and other applicable procedures described in Commissioner's regulations.

**Selection**

The updated list of certified IHOs for this county promulgated by the New York State Education Department will be used in connection with requests for impartial hearings. The list shall also include the names of those other certified IHOs whose names appear on the state list and who have indicated to the district their interest in serving as an IHO in the district.

Upon receipt of a request for an impartial hearing, the rotational selection process for the IHO shall be initiated immediately and always within two (2) business days after receipt by the district of such written request. Should an IHO decline appointment, or if within 24 hours the IHO fails to respond or is unreachable after reasonable efforts by the District Clerk or designee, such efforts will be documented through independently verifiable efforts. The district representative shall then proceed through the list to determine availability of the next successive IHO.

The District Clerk or other person so designated, under the direction of the Board President, shall initiate the selection process by contacting the impartial hearing officer whose name first appears after the impartial hearing officer who last served. The District Clerk or designee shall canvass the list in alphabetical order as prescribed by the Regulations of the Commissioner of Education until an appointment is accepted. Pursuant to the Regulations of the Commissioner of Education, if an impartial hearing is currently pending for the same student when a new hearing request is received, the district will appoint the same IHO, if available, who will determine whether or not to consolidate the hearings. Additionally, if the new hearing request concerns an issue which had been previously withdrawn in the 12 months prior, the district shall appoint the same IHO, if available.

An IHO on the district's rotational list may not accept appointment unless he or she is available to:

1. Make a determination on the sufficiency of the due process complaint that will be heard at the hearing within five days of receiving such a request; and
2. Initiate the hearing within the first 14 days after either:
  - The date on which he or she receives written notice that the parents and the district waived their right to hold a resolution meeting to resolve their differences prior to commencement of the hearing, or met but were unable to reach agreement; or
  - The expiration of the 30-day period beginning with the receipt of the due process complaint, whichever occurs first.

**Appointment**

The Board President, or in his or her absence or inability the Vice President, will appoint an IHO immediately after the IHO selected from the rotational list indicates he or is available.

The Board will rescind the appointment of an IHO and appoint a new one if, the parties to the hearing mutually agree that the IHO is either incapacitated or otherwise unavailable or unwilling to continue the

hearing or issue a decision. The appointment of a new IHO in such an instance will be made in accordance with the selection and appointment procedures established by this policy.

### **Compensation**

The district shall compensate an impartial hearing officer for his or her services at the maximum rate established for such purpose by the Director of the Division of the Budget. Currently, this rate is \$100.00 per hour for pre-hearing, hearing, and post-hearing activities. In addition, impartial hearing officers may be reimbursed for reasonable, actual and necessary expenses for automobile travel in accordance with the IRS reimbursement rates.

The District does not provide any reimbursement for meals, lodging or mailing costs. The District will not reimburse impartial hearing officers for administrative assistance, secretarial or other overhead expenses.

### **Cancellation**

The district shall attempt to provide an Impartial Hearing Officer with two (2) business days advance notice of the cancellation or re-scheduling of an impartial hearing. Should the district request the cancellation or re-scheduling of a hearing date and fail to provide an Impartial Hearing Officer with two (2) days notice, the district agrees to pay the Impartial Hearing Officer a fee of \$100.00.

The district shall not be responsible for costs associated with a parent or guardian's cancellation or adjournment of a hearing.

A copy of this policy will be forwarded to the impartial hearing officer at the time of appointment.

Records relating to the IHO process including, but not limited to, the request for initiation and completion of each impartial hearing will be maintained by the district and such information will be reported to the Office of Vocational and Educational Services for Individuals with Disabilities of SED as required by Commissioner's regulations.

Adoption date: January 6, 2020

### **Legal References:**

8 NYCRR §§200.2; 200.5; 200.21

Book: Policy Manual

**Section 4000: Instruction**

**Title: Declassification of Students with Disabilities**

**Code: 4321.9**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes that it may be appropriate to declassify some students with disabilities. A student may mature and develop skills such that they no longer require the special program, support services or accommodations offered by an Individualized Education Program (IEP), Individualized Education Services Program (IESP) or Services Plan (SP). The Committee on Special Education (CSE), the CSE Subcommittee or, the Committee on Preschool Special Education (CPSE), as applicable, is responsible for making this judgment, while adhering to the requirements of federal and state law and regulation.

**Reevaluation**

However, the CSE, CSE subcommittee, or CPSE members may determine after reviewing existing evaluation data that no additional Prior to determining that a student is no longer eligible for special education services and should be placed in a full-time regular education program, the CSE, CSE subcommittee, or CPSE, as applicable, will conduct a declassification evaluation of the student in accordance with the process and procedures prescribed for the evaluation and reevaluation of students with disabilities, by applicable law and regulations, information is needed to determine the student's continued eligibility for services.

When a determination is made that no additional data is needed for reviewing a student's continued eligibility for special education services, the CSE, CSE subcommittee, or CPSE Chairperson, as applicable, will notify the student's parents of that determination and the reasons for it, and of their right to nonetheless request an assessment. Unless the student's parents make such a request, the district will not conduct any further assessments.

The district will provide the student's parents with a copy of the reevaluation report and documentation regarding the eligibility determination.

Consistent with applicable law and regulation, the district will not conduct a declassification evaluation if the reason why a student is determined to be ineligible for special education services is that he or she has either:

1. Graduated with a regular high school or Regents diploma; or
2. Exceeded the age of eligibility for services.

However, in such an instance the district will provide the student with a summary of his or her academic achievement and functional performance that also includes recommendations on how to assist the student in meeting his or her post-secondary goals.

**Declassification Support Services**

It is the goal of the Board of Education to provide an opportunity for the student to succeed in the transition to the regular education program. In order to facilitate that success, the CSE/CPSE may offer educational and support services for a period of time, not to exceed one year. Declassification support services may include if appropriate:

1. For the student, psychological services, social work services, speech and language improvement services, non-career counseling, and other appropriate support services.

2. For the student's teachers, the assistance of a teacher aide or a teaching assistant, and consultation with appropriate personnel.

The CSE/CPSE will ensure that the appropriate teachers and service providers are informed of the need for the transition services and will specify the nature and duration of those services.

Adoption date: January 6, 2020

**Legal References:**

8 NYCRR §§100.1 (q); 200.2 (b)(8), 200.4 (b) (4-6), (c)(3)

**Cross-References:**

4321, Programs for Students with Disabilities

Book: Policy Manual

**Section 4000: Instruction**

**Title: Public Report on Revisions to District Policies, Practices and Procedures Upon a Finding of Significant Disproportionality**

**Code: 4321.11**

Status: Active

Adopted: January 6, 2020

The Board of Education recognizes that, despite the district's best efforts, there may be times when there might be a disproportionate representation of racial and ethnic groups in its special education programs and services, and/or with respect to the suspension of students with disabilities. To minimize the risk of such an occurrence, the Board has endeavored to adopt policies, practices and procedures for the district that are consistent with the IDEA and Article 89 of New York's Education Law, and their implementing regulations.

Nonetheless, upon learning of a significant disproportionality either in the suspension, identification, classification and/or placement of the district's students with disabilities, the Board will immediately review the district's policies, practices and procedures to determine whether they are fully compliant with the requirements of the IDEA and Article 89, or require revisions. If changes are needed, the Board will take immediate steps to adopt and implement any and all necessary revisions.

The Board will inform the public of any revisions to the district's policies, practices and procedures undertaken as a result of a finding of significant disproportionality. The Superintendent will notify school personnel responsible for implementing the revisions.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act, 20 USC §§1412(a)(24); 1418(d);  
34 CFR §§300.173; 300.646  
8 NYCRR §§200.2(b)(15)

**Cross-References:**

4321 *et seq.* as appropriate.

Book: Policy Manual  
**Section 4000: Instruction**  
**Title: Preschool Special Education**  
**Code: 4321.13**  
Status: Active  
Adopted: January 6, 2020

The Board further recognizes its responsibility to ensure that all resident preschool children with disabilities have the opportunity to participate in preschool programs, approved by the Commissioner of Education, from which they may benefit educationally. The Board of Education recognizes the value of early intervention to address the needs of preschool children with disabilities. Superintendent of Schools to establish administrative practices and procedures which shall include:

1. locating, identifying, evaluating, referring and placing all preschool children (generally ages three and four) with disabilities. The register of children eligible to attend a preschool program is to be maintained and revised annually by the Committee on Preschool Special Education (CPSE);
2. ensuring that the parent(s)/guardian(s) of preschool age children with disabilities have received and understand the request for consent for evaluation of their child;
3. developing an individualized education program (IEP) for each preschool age child with a disability;
4. appointing and training appropriately qualified personnel, including the members of the CPSE; or, appointing appropriately qualified personnel to the CPSE, and ensuring that preschool education providers with whom the district contracts have appropriately trained and qualified personnel.
5. maintaining lists of impartial hearing officers and of State Education Department-approved special education programs within the county and adjacent counties in which the district is located;
6. preparing and keeping on file summary reports of student data including the number of preschool students with disabilities served, as well students referred but not served and the reasons why they are not served; and
7. reporting to the State Education Department the data on preschool children with disabilities as required, on a form prescribed by the Commissioner.

The duties described above will be carried out within the timeframes established by statute and regulation.

The Board of Education hereby establishes the CPSE as required under the Education Law. Its responsibilities will include the evaluation and recommendation for placement in appropriate approved programs and the provision of appropriate special education programs and services for each preschool child with a disability. The CPSE shall review, at least annually, the status of each preschool child with a disability. It is ultimately the responsibility of the Board to arrange for the appropriate approved preschool program and services for the district's children. Should the Board disagree with the CPSE's recommendations, it shall send the recommendation back to the CPSE so that they may schedule a timely meeting to review the Board's concerns and to revise the IEP, as deemed appropriate.

In the event that a parent/guardian files a due process complaint, a meeting must be convened between the parent/guardian and representatives of the district to try and resolve the complaint within 15 days of receiving the notice, and before the initiation of an impartial hearing. Parents/guardians and the district will jointly determine who should be present at this meeting.

If an agreement cannot be reached, parent/guardians shall be offered mediation to resolve complaints regarding the education of preschool children with disabilities at the same time notice of the availability of an impartial hearing is provided.

The CPSE shall make an annual report on the status of each preschool child with a disability and report on the adequacy of preschool special education programs and services to the Board.

The Board directs the Superintendent to develop and maintain a plan which incorporates information concerning the provision of services for preschool children with disabilities, pursuant to the Regulations of the Commissioner of Education.

Adoption date: January 6, 2020

**Legal References:**

Individuals with Disabilities Education Act, 20 U.S.C. §§1400 et seq.  
34 CFR §§300.12; 300.503  
Education Law §4410  
8 NYCRR Part 200, 200.2, 200.5, 200.16

**Cross-References:**

4321, Programs for Students with Disabilities  
4321.3, Allocation of Space for Special Education Programs  
4321.4, Independent Educational Evaluations  
4321.5, Confidentiality and IEP Distribution  
4321.8, Hearing Officer Appointment and Compensation  
4321.14, Special Education Personnel

Book: Policy Manual  
**Section 4000: Instruction**  
**Title: Special Education Personnel**  
**Code: 4321.14**  
Status: Active  
Adopted: January 6, 2020

The Board acknowledges its responsibility to recruit, hire, train and retain highly qualified personnel, as defined in the federal Individuals with Disabilities Education Act (IDEA) and its accompanying regulations and in Article 89 of New York State Education law and its accompanying regulations, to provide special education programs and services. In addition, the Board is committed to appointing appropriately qualified personnel to the Committee (and subcommittee) on Special Education (CSE) and Committee (and subcommittee) on Preschool Special Education (CPSE).

The Board will fulfill its obligation with regard to special education personnel by taking measurable steps including, but not limited to the following:

1. Actively recruit personnel who possess prior experience working with students with disabilities.
2. Solicit resumes from graduates of institutions of higher education that offer programs in special education.
3. Seek candidates for teaching positions who are dually certified, to the extent possible.
4. Ensure that every member of the professional staff participates in annual professional performance reviews and professional development plans.
5. Provide appropriate on-going training and professional development to CSE and CPSE members, and other special education program and service providers to ensure their continuing awareness of their obligations and responsibilities under the law.

The Superintendent is responsible for ensuring that the professional staff is appropriately certified, licensed and trained and that they meet the "highly qualified" standard established in federal and state law. In the event that highly qualified individuals are not available, despite the best efforts of the administration, the Board recognizes its responsibilities to meet the alternative standards established by the State Education Department.

Adoption date: January 6, 2020

**Legal References:**

Individual with Disabilities Education Act, 20 USC §§ 1412(a)(14), 1413(a)(3)  
34 CFR §§ 300.156, 300.207  
Education Law §4410  
8 NYCRR §§ 200.2(b)(3), (12)

**Cross-References:**

4321, Programs for Students with Disabilities  
9240, Recruiting and Hiring  
9700, Staff Development

Book: Policy Manual  
Section 5000: Students  
Title: Students and Personal Electronic Devices  
Code: 5695  
Status: Active  
Adopted: January 6, 2020

The Board of Education recognizes that there are personal electronic devices that have educational applications such as tablets, e-readers, calculators, voice recorders, digital cameras and music listening devices. In some instances, a "smart phone" may include applications that permit these functions. These devices shall be allowed to be used in classrooms if the following criteria are met.

The Board acknowledges that cellular phones, pagers, and 2-way communication systems can be a positive means to facilitate communication; however, the display and/or use of such devices can cause disruption to the educational process.

Therefore, to prevent such disruption, in grades K-8, the display and/or use by students of cellular phones (including "smart phones"), pagers, and 2-way communication systems and/or other electronic devices shall be prohibited from the time students arrive at school until the end of the regular school day, unless specifically permitted to be used by a teacher or administrator. Such devices must be turned off and stored out of sight during this time period. The district is not responsible for stolen, lost or damaged personal electronic devices.

In emergency situations, exceptions to the prohibition of the use of cellular phones, pagers, and 2-way communication systems may be granted by teachers or administrators.

Misuse of any of these electronic devices will result in its confiscation until, as outlined in the code of conduct. Some uses of personal electronic devices may constitute a violation of the school district code of conduct and in some instances, the law. The school district will cooperate with law enforcement officials as appropriate.

### **Cellular Telephones and Testing**

In order to ensure the integrity of testing, in accordance with state guidelines, students are not allowed to bring cell phones or other electronic devices into classrooms or other exam locations during state assessments.

Test proctors, monitors and school officials shall have the right to collect cell phones and other prohibited electronic devices prior to the start of any state assessment and to hold them for the duration of the test taking time. Admission to the test will be prohibited to any student who has a cell phone or other electronic device in their possession and does not relinquish it. New York State Commissioner's regulation prohibits cell phones in test centers and if found after the start of the test, the test will not be counted.

Students with individualized education plans (IEPs), 504 Plans, or documentation from a medical practitioner that specifically requires the use of an electronic device may do so as specified.

Adoption date: January 6, 2020

#### **Legal References:**

*Price v. New York City Board of Education*, 16 Misc.3d 543 (2007).

#### **Cross-References:**

4526, Computer Use in Instruction  
5300, Code of Conduct