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The State Education Department
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Special Education in New York State for Preschool and School-Age Students with Disabilities

A Parent's Guide

The Board of Regents
The University of the State of New York
The State Education Department

Dear Parents and Families:

I am so pleased to have this opportunity to introduce you to the ***Special Education in New York State for Preschool and School-Age Students with Disabilities, A Parent's Guide*** (the Guide). The Guide was developed to assist you in navigating the complex and oftentimes confusing world of special education for students with disabilities.

In this Guide, you will find information regarding the laws, regulations and policies that drive the provision of special education programs and services. Having this information will help you to understand your rights, and the rights of your child, in the special education process and assure that appropriate supports and services are provided so that your child will gain the knowledge and skills needed to live an independent and self-directed life. The information in the Guide will also allow you to better advocate for your child's special education needs throughout your child's school years.

We at the New York State Board of Regents along with the New York State Education Department (NYSED) have set high expectations for the educational programs and services for students with disabilities in New York State. Research has shown that students with disabilities benefit most when they are held to high expectations and given meaningful opportunities to participate in the general education curriculum and receive high-quality instruction and support services tailored to their needs. High expectations coupled with appropriate services and supports provide the greatest opportunity possible for your child to reach the same standards as all students and leave school prepared to successfully transition to post-secondary learning, living and working.

I encourage you to use the Guide as it was intended — as a resource to help you make informed decisions that will support positive educational experiences reflective of your child's strengths and challenges. One of the core principles of NYSED's Blueprint for Improved Results for Students with Disabilities is that parents and other family members be involved as meaningful partners in decision-making about their child's education. Your input as a full participant on the decision-making team is extremely valuable. While other team members may provide input about your child from their professional perspectives, the depth and breadth of your knowledge encompasses all aspects of your child, including specific day-to-day skills and needs, and significantly helps to inform the decision-making process. It is through your participation as an active member in this process that will allow your child, and indeed, your family to continue to grow and thrive.

I wish you and your child a positive and productive educational experience.

With warm regards,



Christine D. Cea, Ph.D.
Regent

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Parent Guide acronym list

Acronym	Meaning
BOE	Board of Education
CDRC	Community Dispute Resolution Center
CPSE	Committee on Preschool Special Education
CSE	Committee on Special Education
EI	Early Intervention
EIP	Early Intervention Program
ELL	English Language Learner
FACE	Family and Community Engagement
FAPE	Free Appropriate Public Education
IDEA	Individuals with Disabilities Education Act
IEE	Independent Educational Evaluation
IEP	Individualized Education Program
IFSP	Individualized Family Service Plan
IHO	Impartial Hearing Officer
LRE	Least Restrictive Environment
MTSS-I	Multi-tiered System of Supports – Integrated
NYSED	New York State Education Department
PBIS	Positive Behavioral Interventions and Supports
RtI	Response to Intervention
SEQA	Special Education Quality Assurance
SRO	State Review Officer

Introduction

The mission of the New York State Education Department (NYSED) is to raise the knowledge, skill, and opportunity of all people in New York. To support this mission, a primary objective of the NYSED Office of Special Education is to ensure that every student with a disability has the opportunity to:

- benefit from high-quality learning experiences in their least restrictive environment;
- access the general education curriculum through the provision of appropriate special education programs and related services; and
- transition from school prepared to successfully enter post-school learning, living and working.

There are essential and fundamental procedural rights and protections afforded by the federal Individuals with Disabilities Education Act (IDEA), the federal regulations that implement IDEA [34 CFR Part 300], Article 89 of the New York State (NYS) Education Law and Part 200 of the NYS Commissioner's Regulations [8 NYCRR], to parents of students with disabilities to ensure students receive a free appropriate public education (FAPE). These protections and rights best help students reach their full potential when parents, families, and schools work together. If you are a parent reading this guide, you may have concerns about your child's progress in school or preschool and whether your child needs special education, or you may have a child who is already receiving special education programs and services. It is important that you have information about the special education process and your rights so that you can be a partner in and make informed decisions about your child's education.[2] The ***Special Education in New York State for Preschool and School-Age Students with Disabilities, A Parent's Guide*** is intended to provide you with:

- a broad overview of the special education process in NYS; and
- a resource to help you understand some of the rights and protections provided by federal and State law and regulations to parents and students throughout the process.

To help you further understand your rights, your school district will give you a copy of NYS's mandatory Procedural Safeguards Notice: Rights for Parents of Children with Disabilities (https://www.nysed.gov/special-education/procedural-safeguards-notice-rights-parents-children-disabilities).

Free Appropriate Public Education (FAPE)

The term "FAPE" means special education and related services that–

- have been provided at public expense, under public supervision and direction, and without charge;
- meet the standards of NYSED;
- include an appropriate preschool, elementary school, or secondary school education in NYS; and
- are provided in conformity with an individualized education program (IEP) that meets the requirements of IDEA, 34 CFR Part 300 and 8 NYCRR Part 200.

NYSED's *Procedural Safeguards Notice* explains your legal rights under federal and State laws. If you are informed about and involved in the special education process, you will be able to make sure that your child receives FAPE. A copy of the Procedural Safeguards Notice must be provided to you at least once a year and at certain other times in the special education process, including whenever you request a copy. The *Procedural Safeguards Notice* and other publications noted throughout this guide are available through the Office of Special Education website (www.nysed.gov/special-education/).

[2] One of the core principles and practices of NYSED's Blueprint for Improved Results for Students with Disabilities is that "*Parents, and other family members, are engaged as meaningful partners in the special education process and the education of their child*." (www.nysed.gov/special-education/blueprint-improved-results-students-disabilities).

Special Education Process



What is special education?

Special education means specially designed individualized or group instruction (i.e., adapting as appropriate, the content, methodology, or delivery of instruction) or special services or programs to meet the unique needs of students with disabilities. This includes, but is not limited to, instruction provided in classrooms, homes, hospitals, institutions and other settings, and also includes specially designed instruction in physical education. Special education services and programs are provided to your child at no cost to you, the parent.

Who is eligible for special education?

Preschool students (ages 3 to 5) and school-aged children (ages 5 through 21) who have been identified by their Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE) as having a disability under the Individuals with Disabilities Education Act that affects their ability to learn are eligible for special education services and programs.

What are the CPSE and CSE?

Every school district has a group of individuals known as the CPSE and CSE that determines a student's special education needs and services. The CPSE is responsible for preschool students with disabilities. The CSE is responsible for school-age students with disabilities. Throughout this Guide, these committees will be referred to as the "Committee" or, in some cases, more specifically as the CPSE or CSE.

You are an equal member of the Committee that will meet to decide your child's special education needs and services. The Committee is also required to include certain individuals who know your child and your child's unique needs. Persons having knowledge or special expertise regarding your child may also be invited by you and/or the school district to be a member of the Committee.

Whenever appropriate, your child will be invited to participate in Committee meetings. If the purpose of the meeting is to consider your child's goals after high school and the transition services needed to help your child reach those goals, your child must be invited. If your child does not attend, the school district must make sure that your child's preferences and interests are considered.

Federal and State law and regulations require committees to include the members identified in the Committee Membership in NYS chart on page 4. Each member of the Committee brings their own point of view to the discussion. You and the other Committee members will work together to make sure that special education programs and services are provided to meet your child's needs.

What is your role on the Committee?

As a parent, you are a full and vital member of the Committee. You have the right and are expected to participate as a member of the Committee in meetings and decisions regarding the evaluation, identification, and educational placement of your child. As a parent,

you know your child better than anyone else and are the constant member of your child's Committee from year to year. You have valuable information to bring to Committee discussions and the decision-making process about your child's unique needs.

What are the steps in the special education process?

Below is a summary of the six steps in the special education process. Each step builds upon the previous one and ensures that all necessary and valuable information about your child is considered throughout the process. Certain timelines are in place so that delays are avoided. Your involvement in each step of the process is important and encouraged. A detailed explanation of each of these steps, important timelines, your rights and responsibilities, and the responsibilities of your school district throughout the process will be provided in the sections that follow (see also Attachment 1. Special Education Process, Attachment 2. CPSE Process Timeline and Attachment 3. CSE Process Timeline).

Step 1: Referral for Special Education Services

A student suspected of having a disability is referred to the Committee for an initial evaluation.

Step 2: Initial Evaluation

The Committee arranges for an evaluation of the student's abilities and needs.

Step 3: Eligibility Determination

Based on evaluation results, the Committee decides if the student is eligible to receive special education programs and services.

Step 4: IEP Development and Implementation

If the student is eligible to receive special education services, the Committee develops and implements an appropriate IEP to meet the needs of the student.

Step 5: Annual Review

The student's IEP is reviewed and, if needed, revised by the Committee at least once a year.

Step 6: Reevaluation

A reevaluation is conducted at least once every three years to review the student's need for special education programs and services and to revise the IEP, as appropriate. A reevaluation may also occur sooner if necessary or when requested by a parent or teacher.

Committee Membership in New York State

(Certain members may also be appointed by the school district to fulfill more than one role on the committee.)

Member Title	CSE	Subcommittee[3] (for CSE only)	CPSE
Parents (or persons in parental relationship to the student)	Required	Required	Required
Not less than one general education teacher of the student	If child is or may be in general education	If child is or may be in general education	If child is or may be in general education
Not less than one special education teacher or special education provider of the student	Required	Required	Required
School psychologist	Required	If a new psychological evaluation is reviewed or a change to more intensive staff/student ratio is considered	Not Required
School district representative (must serve as Chairperson)	Required	Required	Required
Individual to interpret instructional implications of evaluations	Required	Required	Required
School physician	If requested at least 72 hours prior	Not Required	Not Required
Additional parent member (parent of a child with a disability residing in the district or a neighboring district)	If requested at least 72 hours prior	Not Required	If requested at least 72 hours prior
Other persons having knowledge or expertise regarding the student	Required	Required	Required
Student (if appropriate)[4]	Required	Required	Not Required
Representative of the municipality (county)	Not Required	Not Required	Invited, but not a required member
Early Intervention representative	Not Required	Not Required	By parent request for transition to CPSE

[3] A Subcommittee serves the same purpose as a CSE. However, a Subcommittee cannot make the initial (first-time) recommendations for placement in:

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

If a parent disagrees with a recommendation of a Subcommittee, the parent can request, in writing, that the decision be referred to a full Committee (i.e., CSE). That referral will happen immediately.

[4] One of the core principles and practices of NYSED's Blueprint for Improved Results for Students with Disabilities is that *"Students engage in self-advocacy and are involved in determining their own educational goals and plans." This is evident when students participate* in CSE meetings (www.nysed.gov/special-education/blueprint-improved-results-students-disabilities).

Step 1: Referral



What is a referral for special education?

A referral is a written statement requesting that the school district evaluate (i.e., test) your child to determine if your child needs special education services (see Sample Parent Referral Letter below). This written statement should be addressed to the chairperson of your school district's Committee or, for a school-age child, to the building administrator of the school your child attends.

Who can make a referral?

As a parent, you can make a referral at any time to have your child evaluated for special education services. An individual designated by your child's school district[5] (e.g., a principal or other building administrator) may also make a referral. A school district must consider a request that the district refer a student for an initial evaluation ("request for referral") from other individuals, such as your child's teacher or physician. However, only a referral by a parent or an individual designated by the school district starts the special education initial evaluation process.

Sample Parent Referral Letter

Date:_____

Dear [Committee Chairperson and/or Building Administrator]:

I am writing to refer my child,_____, [date of birth], to the Committee on Special Education (or Committee on Preschool Special Education for a preschool-age child). I am requesting that you conduct an initial evaluation to determine whether my child is eligible for special education services. I am concerned about the difficulties my child is having at school (or preschool) in the following areas (describe your specific reasons for referring your child):

Please contact me as soon as possible to discuss my referral. Thank you in advance for your timely response.

Sincerely,
Parent/Guardian signature
Address
City, State, Zip code
Phone number

[5] A Commissioner or designee of a public agency with responsibility for the education of a student and/or a designee of an education program affiliated with a child care institution that has Committee responsibility may also make a referral for an initial evaluation.

How do schools find children who need special education services?

Every school district has the responsibility to identify, locate and evaluate any student that lives in the district, including students with disabilities who are homeless, wards of the State or attend private schools, regardless of the severity of their disability, who may need special education programs and services. This responsibility is known as "child find."

Child find typically involves a screening process to identify students considered "at-risk" for academic and behavioral challenges. A screening is not considered an evaluation for eligibility for special education programs and services. Depending on the results of the initial screening, a school may determine that a student be provided additional support to address the student's areas of need or that the student requires closer monitoring. If the school district suspects that your child has a disability, your child will be referred for an initial evaluation for special education services and you will be asked to give consent for the evaluation to take place. Before agreeing to this testing, you may want to meet with the principal to discuss other ways to help your child.

What should you do if you think your child needs special education?

Preschool Child:
If you have a preschool child and you have noticed that your child is not developing skills such as walking, talking or playing like other young children, you may want to speak to your family doctor. The doctor may be able to reassure you that children develop at different rates and your child is developing appropriately. If, however, the doctor is concerned, or you are still not comfortable with your child's progress, you may make a referral to your school district's CPSE to have your child evaluated to determine if your child needs special education services.

If your two-year-old child is receiving services from an Early Intervention Program (EIP) through an individualized family service plan (IFSP) and continues to need special education services, your child will need to transition (move) from the EIP into a preschool special education program. The Early Intervention (EI) official from your county must give written notice to the CPSE in your school district that your child may be transitioning from the EIP. With your consent, a transition plan must be developed no later than three months before your child's third birthday.

If your preschool child has been receiving special education programs and services, you and the other Committee members will need to discuss your child's school-age program before your child enters kindergarten. During the year before your child is eligible to attend elementary school, the Committee will decide if your child continues to demonstrate eligibility for special education programs or services. If so, the CPSE will make a referral to the CSE to determine eligibility for school-age special education programs and services.

School-Age Child:
If you have a school-age child who is having difficulties in school and has not been receiving special education services, first speak to your child's teacher and/or the school principal. Schools have many ways to support all students within the general education classroom, such as use of Multi-Tiered System of Supports – Integrated (MTSS-I), including Response to Intervention Process (RtI) and Positive Behavioral Interventions and Supports (PBIS), for students who are struggling academically and/or behaviorally (see page 7 for a detailed description of MTSS-I). If your child's native/home language is not English, your school must make sure any academic or behavioral difficulties your child is having are not due solely to cultural or language differences. If at any time you are still not comfortable with your child's progress, you may make a referral to your school district's CSE to have your child evaluated to determine if your child's learning difficulty is the result of a disability.

Multi-Tiered System of Supports – Integrated (MTSS-I)

For additional information on the MTSS-I Center's mission, the MTSS-I Framework, resources, and events, please visit: https://osepartnership.org/mtss-i.

MTSS-I is a school-wide framework for high-quality academic and behavior instruction that is designed to maximize the success of all students. MTSS-I is a whole-child, whole school approach that provides students with the level of support necessary to meet their academic, behavioral, and social-emotional needs. It is not a special program, class or intervention but rather is an approach for all students, including students with disabilities. MTSS-I is a data-driven problem-solving approach that matches appropriate instructional strategies to student needs.

MTSS-I organizes instruction and intervention into increasingly intense tiers or levels of support:

Tier 1 – All students receive high-quality core instruction in academics and behavior.

Tier 2 – In addition to Tier 1, students needing additional support receive more focused, targeted, small-group instruction/intervention and supports.

Tier 3 – In addition to Tiers 1 and 2, individual students receive more intensive instruction, in individual or very small group settings, based on individual student need.

Progress is monitored to ensure students are meeting grade-level State standards. For students needing additional supports, a school-based team (e.g., principals; teachers; school counselors, psychologists, and social workers; intervention specialists; and parents) use this problem-solving process to plan Tier 2 and 3 interventions and monitor progress.

An MTSS-I framework assists schools by providing information (data) to identify students needing additional support (academic or behavioral) and may help to identify students who may need referral for evaluation for special education. If a student is not making sufficient progress after receiving the most intensive level of intervention, it may be determined that a referral for a special education evaluation is needed. An MTSS-I process cannot be used to delay or deny an evaluation to determine special education eligibility.

In an MTSS-I model, parents should expect to receive information on:

- their child's progress in meeting grade-level standards/expectations;
- any academic or behavioral concerns;
- how their child's instruction is addressing specific academic, behavioral, and social-emotional needs; and
- how their child is responding to instruction.

Step 2: Initial Evaluation



What happens after a referral for special education is made?

Upon receipt of a referral for initial evaluation for special education, and prior to conducting the evaluation, you will be provided with a description of the proposed evaluation and how this information will be used (i.e., prior written notice). At the same time, you will be asked to give your written consent to have your child evaluated.

If your school district does not suspect that your child has a disability, and denies your request for an initial evaluation, it must provide you prior written notice explaining why they are refusing to conduct an initial evaluation and the information that was used to make this decision. You can challenge this decision by requesting mediation or an impartial due process hearing or by filing a State complaint to resolve the dispute regarding your child's need for an evaluation (see Rights for Parents on pages 24-27).

Prior written notice must be written in language understandable to the general public and in the language that you speak or other type of communication you use (such as sign language, braille or oral communication), unless it is clearly not feasible to do so.

What is an initial evaluation?

An initial evaluation is the testing that is conducted to determine if your child has a disability and is eligible to receive special education programs or services. The evaluation will include various assessments given individually to your child. These assessments determine what your child's learning difficulties may be and how those difficulties affect your child's participation and progress in the general education curriculum. The initial evaluation is conducted at no cost to you.

What is consent?

Consent means you have been fully informed in the language you speak or other type of communication you use (such as sign language, braille or oral communication) about the evaluations that will be conducted and that you understand and agree in writing to have your child evaluated. An evaluation may not be conducted without your written consent. Your consent for an initial evaluation does not mean that you have also given your consent for the school district to provide special education programs and services to your child. Your consent will also be required for your child to receive special education programs and services for the first time.

What if I don't want to give my consent?

Preschool special education programs and services are voluntary. If you have a preschool child and do not provide consent for your child to be evaluated, the CPSE will take steps to make sure that you have received and understand the request for your consent, but the district may not go forward with the evaluations without your consent.

If you do not provide consent for your school-age child, the school district will offer you the chance to request an informal meeting to discuss the initial evaluation. If you and the district agree there is no

need for a referral, the referral can be withdrawn. If you and the district do not agree, and you continue to refuse to provide your consent, the district may, but is not required to, request mediation or an impartial due process hearing to carry out the initial evaluation (see Rights for Parents on pages 24-27). If you have concerns about providing consent, you can talk to the Committee chairperson.

What is included in an initial evaluation?

The initial evaluation must be sufficiently comprehensive to determine if your child has a disability and identify all of your child's special education needs (see list of Required Components of an Initial Evaluation below). The evaluation includes information from you and the individuals conducting the evaluation, including at least one special education teacher or other person with knowledge of your child's suspected disability. The evaluation will provide information that relates to your child in your child's classroom. It will tell what supports and services your child needs to be involved and progress in the general education curriculum. Any assessments given as part of the evaluation must be administered in the language spoken by your child, or other type of communication your child uses (such as sign language, braille or oral communication), unless it is clearly not possible to do so. The assessments must be administered by people who are trained, knowledgeable, and/or certified to give the tests. The assessments must be fair and not discriminate racially or culturally.

Required Components of an Initial Evaluation

An initial evaluation to determine your child's needs must include:

- a physical examination (by your child's pediatrician or a physician from the evaluation team);
- a psychological evaluation (required for preschool children, but only required for school-age students if determined to be appropriate by the school psychologist);
- a social history;
- observation of your child in your child's current education setting (or for a preschool child or child out of school, a setting appropriate for your child's age);
- other assessments or evaluations that are appropriate for your child (such as a speech and language assessment or a functional behavioral assessment); and
- an assessment to determine vocational skills, aptitudes and interests (for students age 12 and over).

What is your role in the evaluation process?

As a parent, you are an active participant in the evaluation process and have input on the assessments to be given to your child. Before an evaluation is conducted, you will be asked for your suggestions about evaluating your child and given information about the kinds of assessments that will be used. It will be helpful to the Committee for you to share your concerns regarding your child's education and any information you have about your child's skills, abilities, and needs, including copies of any evaluations you have that were previously administered to your child. The information you share must be considered by the Committee when making educational decisions regarding your child. If you have questions about the purpose or type of evaluation, you should discuss them with the chairperson of the Committee (see page 10 for a Checklist for Parent Participation in the Evaluation Process).

Who conducts the evaluation?

If you have a preschool child, you will be asked to select an evaluator from a list of approved preschool evaluators, which includes your school district. The school district will then either arrange for or conduct the evaluation. If you have a school-age child, the school district is responsible for conducting the evaluation.

How long will it take to complete the initial evaluation?

The initial evaluation must be completed within **60 calendar days** from the date your school district receives your consent. This timeline does not apply if you repeatedly fail or refuse to make your child available for the evaluation. If you change school districts while the evaluation is being conducted, you and your new school district can agree in writing to another timeline to complete the evaluation. In addition, if you are the parent of a school-age child

Checklist for Parent Participation in the Evaluation Process

- You have input as to assessments to be conducted as part of the initial evaluation or reevaluation.
- Your written consent is obtained for the initial evaluation.
- You are fully informed of the initial evaluation and the purposes for which the evaluation will be used.
- Your concerns about the education of your child are considered in the evaluation process.
- Evaluation information you share is considered in the evaluation process.
- The results of the evaluation are shared with you in the language you speak or other kind of communication you understand.
- You are provided with a copy of the evaluation report.
- If your child is a preschool student, you are provided a copy of the Preschool Evaluation Summary Report.

suspected of having a learning disability, you and the Committee may agree in writing to extend the timeline to another agreed upon date so your child can participate in an RtI process as part of the initial evaluation.

Will I get a copy of the evaluation results?

The results of the evaluation must be provided to you in the language you speak or other type of communication you understand. This may involve a meeting with the Committee in which the technical language and scoring of individual tests are explained to you, usually by the professionals who administered the tests. In addition, you must be given a copy of the evaluation report. If you are the parent of a preschool child, the CPSE must also give you a copy of the summary report of the findings of the evaluation.

What if I don't agree with the results of the evaluation?

You may obtain an Independent Educational Evaluation (IEE) of your child at your own expense at any time. In addition, if you disagree with the evaluation obtained by your CPSE/CSE or feel that the evaluation was not appropriate, you have the right to request that the IEE be at district expense. An IEE means an evaluation conducted by a qualified examiner who does not work for your school district. "At district expense" means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is provided at no cost to you. You are entitled to only one IEE of your child at district expense each time your school district conducts an evaluation of your child with which you disagree.

If you request an IEE, your school district must provide you with information about:

- where you may obtain an IEE; and
- the district criteria that apply to IEEs (including the location of the evaluation and the qualifications of the evaluator). These criteria must be the same as the criteria the school district uses for its own evaluations. The school district may also set criteria to ensure that the cost of the IEE is reasonable.

The school district must, without unreasonable delay, either:

- ensure that the IEE is provided at public expense; or
- begin an impartial due process hearing to show that its evaluation is appropriate and/or that the IEE you obtained did not follow the school district's criteria. (For more information regarding impartial due process hearings, see Rights for Parents on pages 24-27).

Your school district may ask why you object to the district's evaluation. This gives you and the district the opportunity to review the evaluations conducted and determine what, if any, further evaluations may be needed to address your concerns. However, your school district may not require an explanation and may not unreasonably delay either providing the IEE at public expense or requesting an impartial hearing to defend its own evaluation. The results of any IEE must be considered by the Committee in any decisions regarding your child's special education programs and services if it meets the school district's criteria.

Prior Written Notice (Notice of Recommendation)

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

Prior written notice must be on NYS's mandatory form and 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 the Committee considered and the reasons those options were rejected;
- a description of each evaluation procedure, assessment, record, or report the Committee used as a basis for the proposed or refused action;
- a description of other factors that are relevant to the Committee's proposal or refusal;
- a statement that the parents of a student with a disability have protection under the procedural safeguards of Part 200 of NYS's Commissioner's Regulations, and, if this notice is not a referral for an initial evaluation, how a copy of the procedural safeguards can be obtained; and
- sources for parents to contact to obtain assistance in understanding the provisions of Part 200 of NYS's Commissioner's Regulations.

Additional information regarding prior written notice, including a copy of NYS's mandatory form, is available on NYSED's Prior Written Notice (Notice of Recommendation) Relating to Special Education webpage (www.nysed.gov/special-education/prior-written-notice-notice-recommendation).

Step 3: Eligibility Determination



What happens after the initial evaluation?

After the initial evaluation is completed, the Committee must meet to discuss the results. You will be notified in writing at least **five days** before the meeting is held informing you of the date, time, and purpose of the meeting (see Meeting Notice below). In order for you to be informed of the meeting, your school district must take reasonable steps to ensure that you understand the meeting notice, which could include providing you the notice translated into the language you speak, or other type of communication that you understand.

It is important that you attend this meeting because you have valuable information to share about your child. If the proposed meeting time or place is not good for you, you may contact the district to ask for a change that is good for both of you. If you are unable to attend the meeting, the district can use other ways to encourage your participation. You and the district may agree to make other arrangements that will allow you to participate in your child's meetings such as videoconferences or conference telephone calls. They may also call you before a meeting occurs to talk about the evaluation results and ask you for information about your child.

Based on the evaluation results and any information you provide, you and the other Committee members will decide if your child is eligible for special education services. To be eligible for special education services, a child must have a disability, as defined in law and regulation, that affects the child's ability to learn (see Eligibility for Special Education Services on page 13).

Meeting Notice

A meeting notice is information in writing given to a parent(s) prior to a meeting of the Committee. NYS's Commissioner's Regulations require the parent(s) to receive the notice at least five days before the meeting. However, when the parent(s) and school district agree to a meeting that will occur within five days, or when the purpose of the meeting is to meet the timelines related to suspension or removal of a student for disciplinary reasons, the meeting notice may be provided to the parent(s) less than five days prior to the meeting. For preschool students, the meeting notice must also be given to each CPSE member, including the appointee of the municipality, and be provided in writing by first class mail, postage prepaid, facsimile or personal service. The parent(s) may elect to receive the notice of meetings by an electronic mail (e-mail) communication if the school district makes such option available.

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The meeting notice must be on NYS's mandatory form and include the date, time and location of the meeting. The meeting should be scheduled at a mutually agreed upon time and place and in a location that is physically accessible to the parent(s). For preschool students, to the extent possible, any meeting of the CPSE must be held at a site and time mutually convenient to the members of the CPSE and the parent(s) of the preschool student. This may include, but is not limited to, the worksite of the evaluator, the municipal representative on the CPSE or the chairperson of the CPSE.

The meeting notice must include the purpose of the meeting. The purpose should be stated with enough specificity that the parent(s) is prepared for what might be discussed at the meeting. The meeting notice must also identify, by name and title, who will attend the meeting.

Additional information regarding meeting notice, including additional information that must be included in the meeting notice and a copy of NYS's mandatory form, is available on NYSED's Meeting Notice webpage (www.nysed.gov/special-education/meeting-notice-relating-special-education).

Eligibility for Special Education Services

Preschool: In NYS, a preschool child (ages 3 to 5) may be identified as a "preschool student with a disability" if the CPSE identifies the child as having a disability because of mental, physical, or emotional reasons that require special education services or programs. To be identified as a preschool student with a disability, the child must either:

- have a significant delay or disorder in one or more functional areas related to the child's development such as cognitive, language and communicative, adaptive, socio-emotional or motor development, which adversely affects the child's ability to learn; or
- meet the criteria for a disability classification of autism, deafness, deaf/blindness, hearing impairment, orthopedic impairment, other health-impaired, traumatic brain injury or visual impairment including blindness (see Disability Classifications on page 14 for a definition of each of these classifications).

All preschool students who are found eligible for services are identified by the term "preschool student with a disability."

School-Age: A school-age student who is entitled to attend school may be identified as a "student with a disability" if the CSE identifies the student as having a disability because of mental, physical, or emotional reasons that require special education programs and services. For a school-age student to be identified as having a disability, the student must meet the eligibility criteria for one of the following 13 disability categories: autism, deafness, deaf-blindness, emotional disability, hearing impairment, learning disability, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, speech or language impairment, traumatic brain injury, or visual impairment (including blindness) (see Disability Classifications on page 14 for a definition of each of these classifications).

For school-age students, the CSE must identify the one disability classification that most appropriately describes your child. The determination of a disability classification is used only for eligibility purposes and does not determine the special education programs or services your child will receive.

Disability Classifications [8 NYCRR §200.1(zz)]

1. **Autism** means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disability. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.
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 disability** means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:
    - an inability to learn that cannot be explained by intellectual, sensory, or health factors;
    - an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
    - inappropriate types of behavior or feelings under normal circumstances;
    - a generally pervasive mood of unhappiness or depression; or
    - a tendency to develop physical symptoms or fears associated with personal or school problems.

    The term includes schizophrenia. The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disability.
5. **Hearing impairment** means an impairment in hearing, whether permanent or fluctuating, that adversely affects the child's educational performance but that is not included under the definition of deafness.
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 as determined in accordance with section 200.4(j) of the Regulations of the Commissioner of Education. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of an intellectual disability, of emotional disability, or of environmental, cultural or economic disadvantage.
7. **Intellectual disability** means significantly subaverage 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 impairment, etc.), the combination of which cause 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., club-foot, 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 or brain 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, judgement, 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 an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

What happens if my child is eligible for special education?

If the Committee decides your child is eligible for special education services, it must develop and implement a plan to meet your child's unique needs. This plan is called an IEP (see Step 4: IEP Development and Implementation on page 16).

What happens if my child is not eligible for special education services?

If it is determined that your child does not require special education programs or services, the Committee will notify you of this decision and the reasons your child was not found eligible. The notice must be written in the language you speak or other type of communication you understand, unless it is clearly not possible to do so.

In addition, if your child is school-age, the Committee:

- will notify your child's school principal. The principal will be able to work with professionals in the school or with your child's current teacher, the reading teacher, the guidance counselor, or another specialist to help determine if your child could benefit from general education support services; and
- may also make a referral to another team in the school to have your child evaluated for services under Section 504 of the Rehabilitation Act of 1973.

Step 4: IEP Development and Implementation



What is an IEP?

An IEP is a written document for a student with a disability that is developed and reviewed by the CPSE or CSE. The IEP identifies your child's unique needs and the special education programs and services that will be provided to meet those needs. As a member of your child's Committee, you will participate in and provide input on the development and any review and revision of your child's IEP.

In NYS, all IEPs must be on the State's mandatory IEP form. Additional information about IEPs and a copy of the State's required IEP form is available in the Office of Special Education's publication Guide to Quality Individualized Education Program Development and Implementation (www.nysed.gov/special-education/individualized-education-program-iep). The IEP must include certain information about your child and the special education programs and services to be provided to meet your child's unique needs (see IEP Required Components below).

IEP Required Components

The IEP is the cornerstone of the special education process for each individual student. Federal and State laws and regulations specify that the following information must be included in each student's IEP:

- ☐ Your child's name and disability classification;
- ☐ Date the IEP is to be implemented;
- ☐ Projected date of annual review;
- ☐ Your child's current abilities, needs, and evaluation results;
- ☐ Annual goals and, for preschool students with disabilities and students who take the NYS Alternate Assessment, short-term instructional objectives and/or benchmarks for your child to meet this school year;
- ☐ Information about the special education programs or services your child will receive (the frequency (how often), duration (how long) and location (where) each recommended service will be provided) to help your child meet your child's goals and support
    - your preschool child's participation in appropriate activities; or
    - your school-age child's involvement and progress in the general education curriculum;

- ☐ Special accommodations, if any, your child will receive to take tests[6] (such as a longer time to take tests);
- ☐ Supplementary aids and services, accommodations and/or program modifications for your child (such as special seating arrangements);
- ☐ Special equipment your child may need in school;
- ☐ Supports for your child's teachers to help implement your child's IEP;
- ☐ When you will receive reports on your child's progress;
- ☐ For students age 15 and older, transition needs and services;
- ☐ Type of setting where your child's IEP will be implemented in consideration of your child's unique needs; and
- ☐ Placement decisions must be developed consistent with the Least Restrictive Environment (LRE) requirements.

How is an IEP developed?

Your child's IEP needs to be developed in a certain order. The information considered and discussed in each step provides the basis for the next step.

Step 1: IEP development begins with a discussion about your child's present skills, strengths, and individual needs (present levels of performance). This discussion includes how your child's disability affects your child's participation and progress in the general education curriculum (or for a preschool student, participation in appropriate activities).

Step 2: After discussing how your child is currently performing in school, the Committee must recommend measurable annual goals. These goals identify the knowledge, skills and/or behaviors your child will be expected to reach in one year that relate to your child's unique needs and abilities.

In developing the recommendations for your child's IEP, you and the other Committee members must consider:

- the results of your child's evaluation;
- your child's strengths and needs;
- your concerns for improving your child's education; and
- any unique needs related to your child's disability (such as communication needs, behavior, etc.).

Step 3: Based on your child's needs and goals, the Committee must then decide the appropriate special education programs and services, including accommodations, modifications, and supports, your child needs to reach these goals and to participate and progress in the general education curriculum, as well as in extracurricular and other nonacademic activities (e.g., athletics, transportation, health services), with other students.

Step 4: Finally, the Committee will decide where each recommended service will be provided (location), and the type of setting where your child's IEP will be carried out (placement).

In determining the location of services and your child's educational placement, the Committee must ensure that services are in the LRE (see Least Restrictive Environment (LRE) on page 18). This means that unless your child's IEP requires some other arrangement, your child must be educated in the school and classrooms your child would have attended if your child did not have a disability. A Committee should first consider the general education class as the location for special education services including related services rather than a separate location in order to help maximize your child's participation in general education programs and in the general education curriculum. For preschool students, before recommending that special education services

[6] Testing Accommodations for Students with Disabilities; Policy and Tools to Guide Decision-Making and Implementation (www.nysed.gov/special-education/testing-accommodations-students-disabilities-policy-and-tools-guide)

be provided in a setting which includes only preschool children with disabilities, the CPSE must first consider providing special education services in a setting with peers of a similar age that do not have disabilities. After consideration and development of all other parts of your child's IEP, the Committee will determine the placement that is the most appropriate for your child. Placement may be in a public school district, board of cooperative educational services classroom, approved private day or residential school, private preschool or daycare setting.

Least Restrictive Environment (LRE)

LRE means that placement of students with disabilities in special classes, separate schools or other removal from the regular educational environment occurs only when the nature or severity of the disability is such that, even with the use of supplementary aids and services, education cannot be satisfactorily achieved.

Your child's IEP must be developed consistent with the following LRE provisions:

- placement is based on your child's IEP and determined at least annually;
- placement is as close as possible to your child's home. Unless your child's IEP requires another arrangement, your child should be educated in the school your child would have attended if your child did not have a disability;
- in determining the LRE, the Committee considers any possible harmful effect on your child or the quality of services that your child needs; and
- your child is not removed from education in regular classrooms with other children of the same age only because the general education curriculum needs to be modified.

What special education programs and services may be recommended on my child's IEP?

You and the other members of the Committee must decide what special education program and services are needed to meet your child's unique needs. Schools may use a variety of combinations of special education supports and services from the continuum (range) of services available to serve students with disabilities.

Under NYS law and regulations, the continuum of special education services and programs may include:

For preschool students:

- related services (see Related Services on page 19);
- special education itinerant services (which means the special education teacher travels to the site of the child care setting where the child is attending during the day, such as an approved or licensed prekindergarten or Head Start program, a hospital, a state facility, or another child care location selected by the parent or home under certain circumstances) ;
- a half-day preschool program;
- a full-day preschool program;
- a 12-month special service and/or program; and
- an in-State residential special education program.

Related services and special education itinerant services can be delivered at your home, in daycare, a regular preschool program or other early childhood program in which you have enrolled your child. The CPSE must ensure that services are provided in the LRE (see Least Restrictive Environment (LRE) above).

For school-age students:

- specially designed instruction and supplementary services provided in the regular class;
- consultant teacher services;
- related services (see Related Services on page 19);
- resource room programs;
- integrated co-teaching services;
- special classes;
- home and hospital instruction;
- placement in an in-State or out-of-State approved private school; and
- a 12-month special service and/or program.

Related Services

Related services for both school-age and preschool students include, but are not limited to:

- speech/language therapy
- audiology services
- interpreting services
- psychological services
- counseling services
- physical therapy
- occupational therapy
- orientation and mobility services
- parent counseling and training
- school health services
- school social work
- assistive technology services

Additional information about NYS's continuum of services is available in the NYSED publication Continuum of Special Education Services for School-Age Students with Disabilities (www.nysed.gov/special-education/continuum-special-education-services-school-age-students-disabilities).

What information must be part of the IEP for young adults?

It is important to plan ahead when your child becomes a teenager so that your child can prepare for a high school diploma and/or learn skills necessary for employment, postsecondary education and/or community living as an adult. Beginning with the first IEP to be in effect when your child turns age 15, the Committee will begin discussing your child's goals as an adult, and the skills needed to meet these goals. From this point forward, the IEP will include programs and services to prepare for adult life (transition services) to address your child's hopes and dreams for the future. Transition planning will involve you, your child and the school discussing questions such as:

- What can your child do now to prepare for being an adult? What can you do to help your child prepare? What type of independent living skills does your child need for their future?
- What will your child do after your child graduates with a diploma, exits from school, or is no longer eligible to attend school? What are your child's career and life goals after high school? What type of services will your child need to assist in their transition to post high school life?
- Will your child go to college? If so, what high school courses should your child take? What tests will your child take?
- Will your child look for a job right after high school? Will your child need job training while still in school?
- Where will your child live? Does your child need to learn new skills to live independently?

Additional information on transition planning is available at Transition from School to Post School for Students with Disabilities (www.nysed.gov/special-education/transition-school-post-school-students-disabilities).

When will IEP services start?

Your school district is responsible for arranging appropriate special education programs and services for your child. You must provide written consent before special education programs and services can be provided to your child. If you do not respond or refuse to provide consent, the district may not provide any special education programs or services to your child. Your child's IEP will indicate the projected beginning/service dates for the initiation of the recommended programs and services.

Preschool Timeline:
Your child's IEP must be implemented as soon as possible, but not later than **30 school days** from the recommendation of the CPSE and within **60 school days** from the date the district received your consent to evaluate your child.

If your child received EI services through the EIP and is determined eligible for preschool special education by the CPSE, you can choose to have your child receive preschool special education programs and services from the CPSE under an IEP or continue to receive the services in your child's IFSP through the EIP until your child is no longer age-eligible. The IEP will indicate the date for the initiation of the special education programs and services based on whether you choose to have your child transition to preschool services or remain in the EIP until no longer age-eligible.

School-age Timeline:
Your child's IEP must be implemented as soon as possible after the CSE makes its recommendation, but not later than **60 school days** after the date the district received your consent to evaluate your child. However, if your child will be attending an approved private school, services must start within **30 school days** from when the Board of Education (BOE) receives the CSE's recommendation.

The school district must make sure that your child's IEP is carried out as recommended by the Committee. The district must also:

- provide copies of the IEP to all of your child's teachers who are responsible for carrying out your child's IEP; and
- inform teachers and staff of their specific responsibilities as described in your child's IEP.

What if I do not want my child to get special education services anymore?

At any time after you give consent for your child to receive special education programs and services, and you no longer want your child to receive special education programs and services, you may revoke your consent in writing. If you revoke your consent, your school district cannot continue to provide any of the programs and services on your child's IEP but must provide you notice before ending these services. The school district is not required to amend your child's education records to remove any references to your child's receiving special education programs and services.



Step 5: Annual Review



What is an annual review?

At least once a year, you and the other members of the Committee must meet to review your child's IEP to determine if the annual goals are being achieved and, if appropriate, revise the IEP. This meeting is called an annual review. The expected date of the annual review must be identified in your child's IEP. The Committee must also meet to review your child's IEP when requested by you or your child's teacher. You will receive a meeting notice letting you know of the Committee's plan to meet and review, and, if necessary, make changes to your child's IEP.

At the meeting to review your child's IEP, the Committee will consider:

- your child's progress, achievement, strengths, and needs;
- your concerns for improving your child's education;
- current evaluation information;
- any unique needs related to your child's disability; and
- your child's ability to participate in regular education and in the LRE.

What happens after the annual review meeting?

After your child's annual review meeting is held:

- You will be notified in writing of the Committee's recommendations (i.e., prior written notice). The notice must be written in the language you speak, or other type of communication you understand, unless it is clearly not possible to do so.
- You will receive a copy of your child's IEP.
- Copies of the IEP will be provided to teachers and other individuals who will be working with your child. These individuals will also be informed of their specific responsibilities for carrying out your child's IEP.

Can an IEP be changed after an annual review?

You may request a Committee meeting to review your child's IEP at any time. In addition, after the annual review meeting, you and your school district can also agree in writing to change your child's IEP without holding a Committee meeting. If the district wants to change your child's IEP without a meeting, they must provide you with the proposed changes in writing, in the language you speak or other type of communication you understand, and give you an opportunity to discuss these changes with the appropriate teachers or staff. If any changes are made to your child's IEP at a Committee meeting or through written agreement without a meeting, you will receive written notice of these changes and a copy of the document that revises the IEP. You may also request a revised copy of the entire IEP with the changes included.

Step 6: Reevaluation



When will my child be reevaluated?

A reevaluation of your child's needs for special education services must be conducted **at least once every three years**, unless you and the district agree in writing that one is not necessary. Your child may be reevaluated sooner if:

- the district determines that your child's educational or related service needs make a reevaluation necessary; or
- you or your child's teacher requests a reevaluation. For example, if the district suspects that your child no longer requires special education services, a reevaluation of your child must be completed before action is taken to end your child's services (e.g., declassification). A reevaluation may not occur more than once a year unless you and your district agree otherwise.

What happens in a reevaluation?

A reevaluation provides the opportunity to assess your child's individual needs and the continued appropriateness of the special education services your child has been receiving. Like the initial evaluation, you have input as to the tests to be conducted as part of the reevaluation. Before conducting the reevaluation, the Committee, of which you are a member, and other qualified professionals must review existing evaluation information, including any evaluations and information you provide. A determination will be made as to what additional tests, if any, are needed. Your school district will ask for your written consent prior to conducting additional tests.

The reevaluation will determine your child's:

- individual needs;
- educational progress and achievement;
- ability to participate in regular education classes; and
- continued need for special education programs and services.

What happens after the reevaluation is completed?

After the reevaluation is completed, the Committee must meet to review the results of the reevaluation and, if necessary, revise your child's IEP. Whenever possible, the meeting to discuss the reevaluation results should be combined with other CPSE/CSE meetings for your child (e.g., your child's annual review meeting). In making a decision to combine meetings, the CPSE/CSE must consider the closeness of the two meetings to the date the reevaluation was completed. The meeting to review the reevaluation results must occur as soon as possible after the reevaluation has been completed so that any necessary changes to your child's need for services and/or IEP can be considered.

What happens if my child no longer needs special education?

If it is determined that your child no longer needs special education services (your child is declassified), you will be notified in writing of the Committee's decision. The notice must be written in the language you speak, or other type of communication you

understand, unless it is clearly not possible to do so. If your child is school-age, the notice will also identify the declassification support services, if any, that will be provided to your child and/or your child's teachers to assist in your child's transition from special education to full-time regular education. For additional information on the types of services that may be provided to a declassified student and the maximum length such services may be provided, see the Declassification Support Services box below.

Declassification Support Services

Declassification support services for your child may include but are not limited to:

- psychological services,
- social work services,
- speech and language services,
- counseling, and other support services.

For your child's teacher, declassification support services may include the support of a teacher aide or a teaching assistant and/or consultation with another professional.

If recommended, declassification support services will be provided to your child for up to one year.



Rights for Parents



What are my rights as a parent?

You have the right to participate as an equal member of the CPSE or CSE in NYS.
No one knows more about your child than you do. By working together, you and the staff of the school can help your child have a successful school year. You are encouraged to be an active member of your child's educational planning. Children benefit more from their education if their parents are involved and well informed. As a Committee member and parent, it is important that you understand the special education process, your rights, and how to become involved in your child's program.

You must be given opportunities to participate in CPSE/CSE discussions and the decision-making process about your child's need for special education.
You will receive notice before meetings of the CPSE or CSE inviting you to participate in the development of the recommendations for your child's educational program. You have legal due process rights under federal and State laws to be involved in these meetings and make sure that your child receives an appropriate education.

You must receive written notice (i.e., prior written notice) several times during the process of identifying, evaluating, placing your child, and providing your child with special education services and/or programs.
Prior written notice must be given to you a reasonable time before the district proposes or refuses to initiate or change the identification, evaluation, educational placement of your child or the provision of a FAPE.

There are also certain actions that may not be carried out without your written consent.

You have due process rights available to you if you have concerns about your child's education.
If you disagree with decisions made by your child's CPSE or CSE about your child's evaluations, identification, classification, placement or educational program, you have the right to request a meeting, ask for mediation, file for an impartial due process hearing and/or file a State complaint alleging a violation of special education requirements. A more detailed description of your due process rights can be found below.

Informal Discussions/Additional CPSE/CSE Meetings
If you become concerned about your child's special education program or services, or disagree with recommendations of the Committee, you should first discuss these concerns with appropriate teachers or administrators at the school district. Informal meetings and phone conferences help you build a partnership with your child's teacher and school. You may also ask for a meeting with school administrators or the CPSE or CSE to discuss your concerns about your child's education.

- Keep a record of what was discussed at the meeting, who attended, and steps identified to resolve your concerns.
- If necessary, request a follow-up meeting within a reasonable amount of time to revisit your concerns and to ensure that the steps identified above were carried out as planned.

- Try to work out differences informally with your school district as soon as they happen.
- If, after talking to your child's teacher, the CPSE/CSE, and your school administrator, you have questions or feel your concerns have not been addressed, you may want to contact your Special Education Quality Assurance (SEQA) Regional Associate from NYSED for assistance (Attachment 4. Special Education Quality Assurance Regional Units).

Special Education Mediation

If it is not possible to resolve disagreements informally, mediation is another way to address differences. Special education mediation is a voluntary process for you and the school district to work out disagreements about the recommendations of the Committee in a non-adversarial manner. All school districts must make mediation available as an option to parents. Mediation is at no cost to you or the school district. Because mediation is voluntary, and the parties have the flexibility to come up with their own solutions, mediation may result in written agreements where parties have an increased commitment to, and ownership of, the agreement. Additionally, because both parties are involved in developing the mediation agreement, the remedies can be individually tailored and include workable solutions to their particular situation.

- If you would like to request mediation, you must contact your school district. For written requests, parents may, but are not required to use NYSED's sample mediation request form (www.nysed.gov/special-education/mediation).
- You and a person chosen by the BOE meet with a qualified and impartial mediator from the Community Dispute Resolution Center (CDRC) (ww2.nycourts.gov/ip/adr/ProgramList.shtml) in your county who helps in reaching an agreement about the recommendation for your child.
- Discussions that occur during mediation are confidential and cannot be used as evidence in any future impartial due process hearing or court proceeding.
- At the end of the mediation session, whatever you and the school district representative agree should be done is fully described in a legally binding written agreement.
- If necessary, the Committee must immediately meet to revise your child's IEP to be consistent with the mediation agreement.
- The agreement reached in mediation is binding (final) between you and the school district and is enforceable.

If you decide not to use mediation, someone from the CDRC may call you to talk about the benefits of mediation. This discussion cannot deny or delay your right to request an impartial due process hearing.

Impartial Due Process Hearing

You also have the right to request an impartial due process hearing (www.nysed.gov/special-education/due-process-hearing). An impartial hearing is a more formal proceeding in which disagreements between you and the school district are decided by an impartial hearing officer (IHO) appointed by the Board of Education. You or the school district may request an impartial hearing relating to the identification, evaluation or educational placement of your child with a disability, or the provision of FAPE to your child.

- Your request for an impartial hearing must be made in writing to the BOE. NYSED has developed a Sample Due Process Complaint Notice (www.nysed.gov/special-education/due-process-hearing) to assist parents and school districts in filing for an impartial hearing. A copy of the request must also be sent to NYSED.
- The impartial hearing is at no cost to you. You may represent yourself at the hearing. If requested by you, the school district must provide you with information on free or low-cost legal and other relevant services. You may have to pay your own attorneys' fees.
- The decision of the IHO will be based only on the recorded testimony and documents presented at the hearing and will provide the reasons and facts for the decision.
- This decision will be binding (final) unless you or the school district appeals the decision to the State Review Officer (SRO).

A school district cannot use mediation or a due process hearing to seek approval to provide your child with special education services if you do not provide consent for such services.

State-Level Appeal of IHO Decisions

- The decision made by the IHO is final (must be followed by you and the school district) unless you or the school district ask for a review of the IHO's decision (called an appeal) by an SRO.
- An appeal to an SRO must be made in writing and received by the Office of State Review (www.sro.nysed.gov) no later than 40 calendar days after the date of the decision of the IHO. Procedures and timelines for submitting an appeal are specific and must be followed exactly to avoid delay or dismissal.
- Parents may seek the help of an attorney or advocate to file an appeal, but this is not required.

Appeal of an SRO Decision to a Court

The decision of an SRO is final unless either you or the school district seek review of the SRO decision in either State Supreme Court or a Federal District Court within four months from the date of the SRO decision.

State Complaint

If you believe that a school district or public agency has violated State or federal special education laws and regulations related to the education of students with disabilities, you may submit a written, signed complaint to NYSED. The alleged violation must have occurred not more than one year from the date the complaint is received. NYSED's Sample Complaint Form (www.nysed.gov/special-education/state-complaint) may be used to file a complaint. If you choose to use your own format to submit a complaint, you must provide the required information, as appropriate, as indicated on the sample form.

You must send the original signed written complaint to:

New York State Education Department
Office of Special Education
89 Washington Avenue, Room 309 EB
Albany, New York 12234

You must also forward a copy of the complaint to the school district or public agency serving the student at the same time you file the original complaint with NYSED. You will receive a letter from NYSED stating that your complaint has been received and telling you about your right to submit additional information about the complaint either orally or in writing. Your complaint will be investigated, and a written determination will be issued. A determination must be made within 60 calendar days of when your complaint was received, unless exceptional circumstances exist with respect to a specific complaint or you and the district or public agency agree to extend the timeline so that you may engage in mediation. You will receive a written, final decision that addresses each claim you raise, the findings of fact, and the reasons for the final decision.

Please note that any part of your State complaint that is currently being addressed in an impartial hearing cannot be investigated by NYSED and will be set aside until the impartial hearing closes. In addition, if an issue in a State complaint has been previously decided in an impartial hearing, NYSED will not investigate such issues and will inform you that the impartial hearing decision is binding. There is no appeal of a State complaint. Additional information on State complaints can be found in the New York State Complaint Procedures - Questions and Answers (www.nysed.gov/special-education/state-complaint).

Where can I find additional information about my due process rights?

Additional information about dispute resolution and your rights is available on NYSED's Dispute Resolution Options webpage (www.nysed.gov/special-education/dispute-resolution-options).

Who should I contact if I have additional questions about the special education process in NYS?

If you have questions about the special education process or about your child's services that are not answered in this Guide, you may wish to contact your child's teacher(s), principal, and/or the Director of Special Education in your local school district. There are also NYSED funded Early Childhood and School-age Family and Community Engagement (FACE) Centers across the State that can provide you with information on service options and delivery systems for children, resources, training and strategies to promote meaningful involvement in your child's education

programs. Additional information about the FACE Centers is available on NYSED's Office of Special Education Partnership webpage (www.osepartnership.org).

You may also wish to contact the SEQA Office located in your region of the State and speak to the Regional Associate assigned to your school district. Regional Associates are NYSED employees who oversee preschool and school-age special education services. They can provide you with additional information or answer questions you may have about:

- the information in this Guide;
- the special education process;
- your child's special education program; or
- your legal rights as a parent.

The locations and telephone numbers of the seven SEQA Regional Units are listed in SEQA Regional Units (www.nysed.gov/special-education/special-education-quality-assurance-regional-units (see also Attachment 4. Special Education Quality Assurance Units on page 31).

If you call, you should ask to speak to the Regional Associate responsible for your school district.



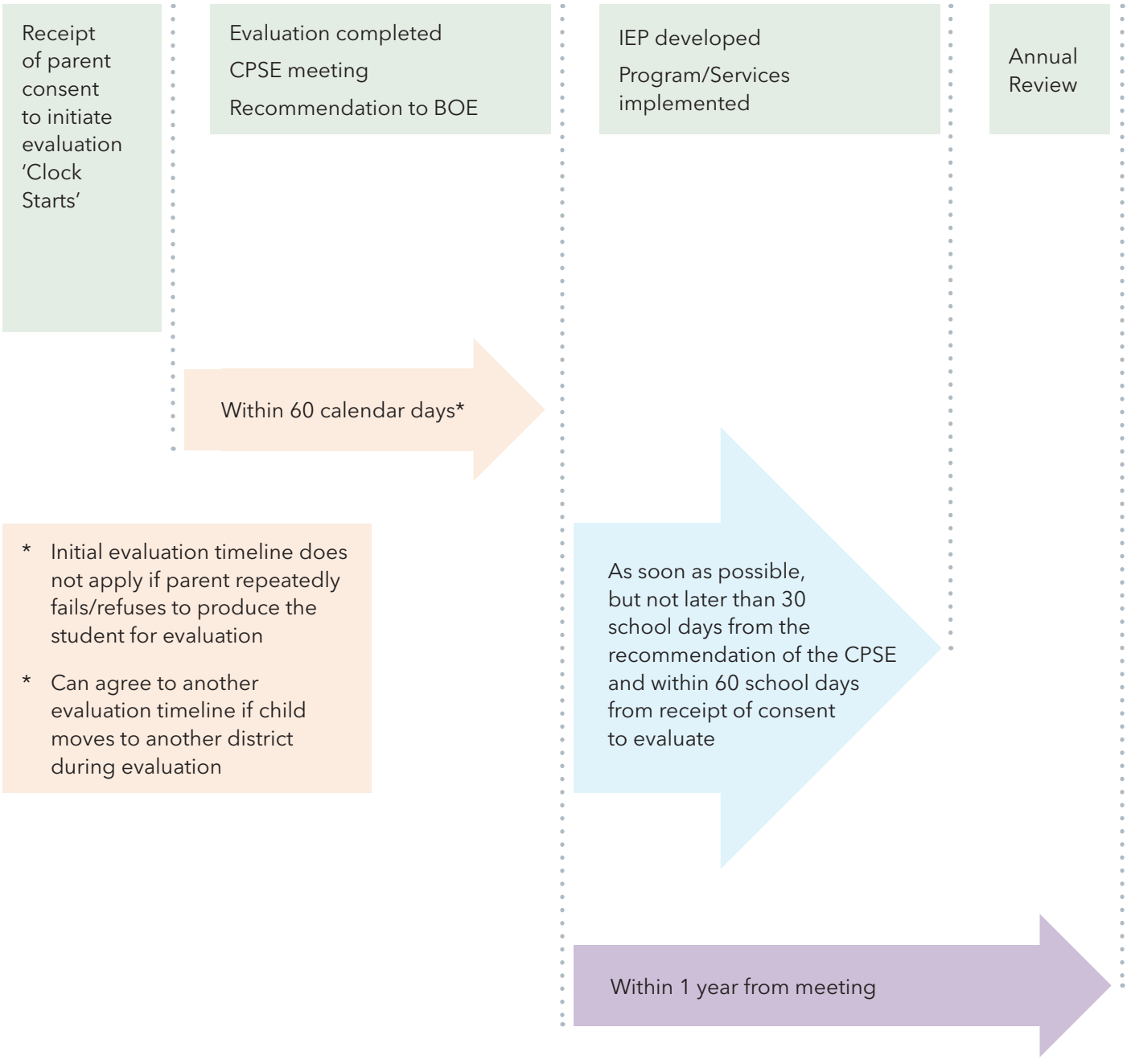
Attachment 1

Special Education Process

Step 1 **Referral for Special Education Services**	A student suspected of having a disability is referred to the Committee for an initial evaluation.
Step 2 **Initial Evaluation**	The Committee arranges for an evaluation of the student's abilities and needs.
Step 3 **Eligibility Determination**	Based on evaluation results, the Committee decides if the student is eligible to receive special education programs and services.
Step 4 **IEP Development and Implementation**	If the student is eligible to receive special education services, the Committee develops and implements an appropriate IEP to meet the needs of the student.
Step 5 **Annual Review**	The student's IEP is reviewed and, if needed, revised by the Committee at least once a year.
Step 6 **Reevaluation**	A reevaluation is conducted at least once every three years (except where the district and parent agree in writing that a reevaluation is unnecessary) to review the student's need for special education programs and services and to revise the IEP, as appropriate. A reevaluation may also occur sooner if necessary or when requested by a parent or teacher.

Attachment 2

CPSE Process Timeline



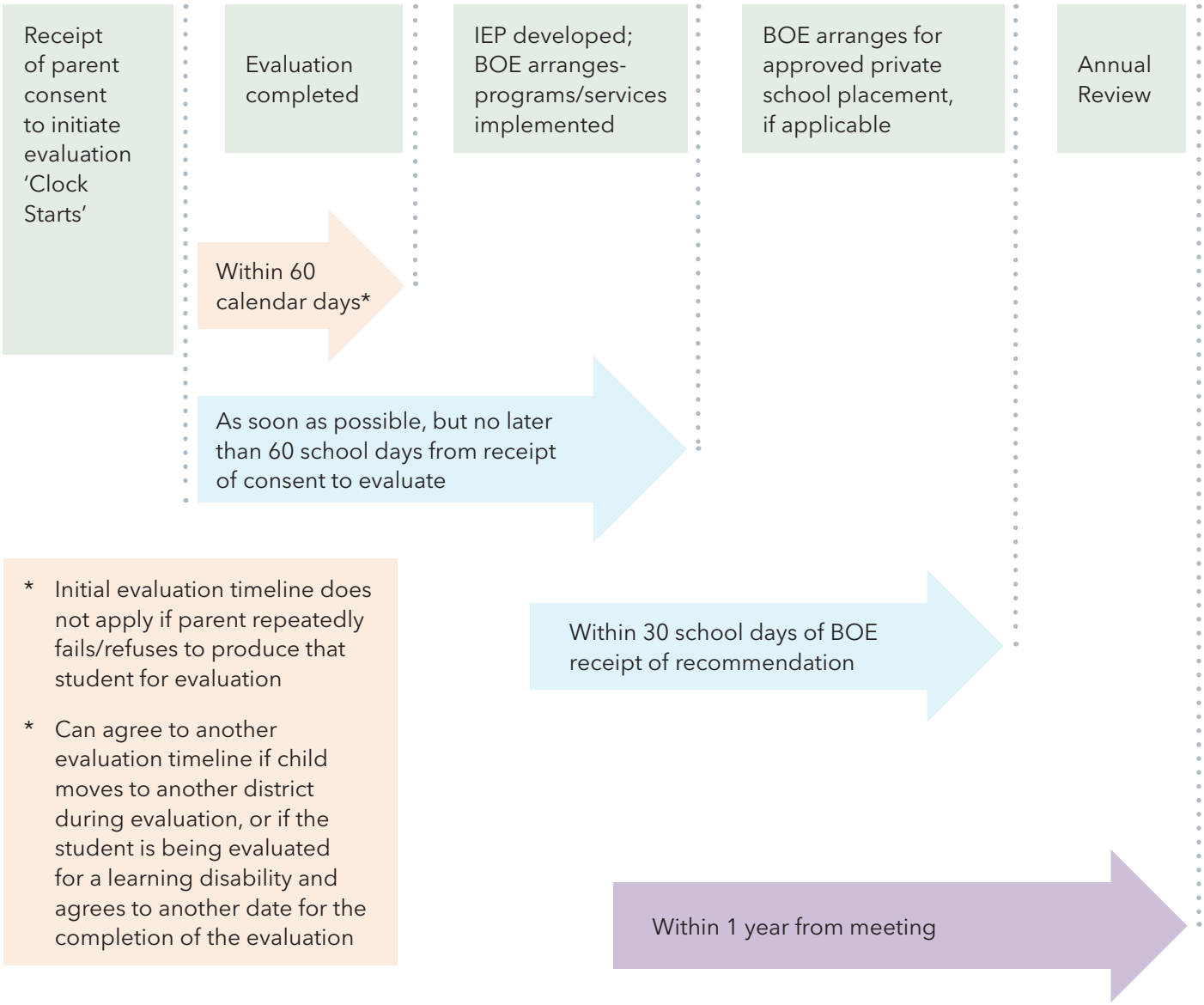
* Initial evaluation timeline does not apply if parent repeatedly fails/refuses to produce the student for evaluation

* Can agree to another evaluation timeline if child moves to another district during evaluation

A reevaluation of your child's needs for special education services must be conducted at least once every three years, unless you and the district agree in writing that one is not necessary

Attachment 3

CSE Process Timeline



* Initial evaluation timeline does not apply if parent repeatedly fails/refuses to produce that student for evaluation
* Can agree to another evaluation timeline if child moves to another district during evaluation, or if the student is being evaluated for a learning disability and agrees to another date for the completion of the evaluation

A reevaluation of your child's needs for special education services must be conducted at least once every three years, unless you and the district agree in writing that one is not necessary

Attachment 4

Special Education Quality Assurance Regional Unit

If you have general questions about special education or have a specific question about special education services, please contact the Special Education Quality Assurance unit located in your region. Within each unit, Regional Associates, who are employees of NYSED, are assigned to specific school districts and special education programs. The Regional Associate oversees preschool and school-age special education services, and serves as a resource to parents, school district personnel, and private providers. When contacting the regional unit, please identify your county, school district or special education program so that you may be directed to the appropriate Associate.

Central Regional Unit
NYS Education Department
Special Education Quality Assurance

Hughes State Office Building
333 East Washington Street, Suite 210
Syracuse, NY 13202
(315) 428-4556
(315) 428-4555 (fax)

Western Regional Unit
NYS Education Department
Special Education Quality Assurance

2A Richmond Avenue
Batavia, NY 14020
(585) 344-2002
(585) 344-2422 (fax)

Eastern Regional Unit
NYS Education Department
Special Education Quality Assurance

89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 486-6366
(518) 402-3582 (fax)

Long Island Regional Unit
NYS Education Department
Special Education Quality Assurance

Perry B Duryea, Jr., State Office Building
Room 2A-5
250 Veterans Memorial Highway
Hauppauge, NY 11788
(631) 952-3352
(631) 952-3834 (fax)

Hudson Valley Regional Unit
NYS Education Department
Special Education Quality Assurance

89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(914) 492-2180 (fax)

New York City Regional Unit
NYS Education Department
Special Education Quality Assurance

55 Hanson Place, Room 545
Brooklyn, NY 11217-1580
(718) 722-4544
(718) 722-2032 (fax)

Nondistrict Unit
NYS Education Department
Special Education Quality Assurance

89 Washington Avenue, Room 309 EB
Albany, NY 12234
(518) 473-1185
(518) 402-3582 (fax)

The University of the State of New York
The State Education Department
Office of Special Education
Albany, New York 12234
www.nysed.gov/special-education/

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