

PROGRAMS FOR STUDENTS WITH DISABILITIES

The Board of Education shall make available to all students eligible, under the Individuals with Disabilities Education Act and Article 89 of the Education Law and their implementing regulations, a free appropriate public education in the least restrictive environment appropriate to meet students' individual needs.

The Board acknowledges its responsibility to offer, at public expense, Special Education and related services, which are designed to provide educational benefits to students in conformity with their Individualized Education Program. 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.

Consistent with the requirements of Federal and State Law and Regulations, the Board shall:

1. Appoint a Committee on Special Education (CSE) and, as appropriate, CSE sub-committees to assure the identification and placement of eligible students with disabilities.
2. Based upon the recommendation of the CSE, arrange for Special Education programs within legally prescribed time frames. Should it disagree with the recommendation of the CSE, the Board, upon notice to the parents involved and in accordance with the procedures set forth in the Regulations of the Commissioner of Education, may forward its concerns to the CSE, or reconvene a second CSE for review of and revisions to the original recommendation as appropriate.

Testing and evaluation procedures will be used for the identification and placement of students with disabilities, which meet the requirements of Federal and State Law and Regulations. As part of the periodic re-evaluation of a student with disabilities, the CSE will determine if the child continues to have a particular category of disability or continued need for Special Education and related services. The continued eligibility for services of a student previously classified as a student with disabilities will be determined in accordance with the procedures set forth in Federal and State Law and Regulations.

Parents of students with disabilities and their children will be provided with notice of the procedural safeguards available to them and their children and will be afforded the procedural safeguard rights set forth in the notice. The District will use the procedural safeguard notice prescribed by the Commissioner of Education and make the notice available in the manner prescribed by the Commissioner's Regulations.

To ensure the appropriate delivery of services to students with disabilities in the District, the Superintendent shall ensure that:

1. All children with disabilities residing in the District, including those attending private school are identified, located and evaluated.

2. School-wide approaches and pre-referral interventions including, but not limited to, academic intervention services in order to remediate a student's performance prior to referral for Special Education services.
3. The CSE is informed of the process prescribed by law and regulations for the appropriate classification and declassification of students with disabilities.
4. Each student with a disability receives a comprehensive, non-biased evaluation to determine his/her educational needs.
5. An Individualized Education Program (IEP) is developed for each student with a disability.
6. Students with disabilities and their parent/guardian receive prior written notice whenever the District proposes or refuses to initiate or change the identification, evaluation or educational placement of a student.

Each student with a disability shall have equal opportunity to participate in the full range of programs and services of this District, including extracurricular programs and activities, which are available to all other students enrolled in the public schools of the District.

The Superintendent shall ensure that personally identifiable data and information or records pertaining to students with disabilities remain confidential as required by law and regulations.

The Superintendent shall also develop and maintain a comprehensive system of personnel development plans so that professional and paraprofessional staff working with students with disabilities possess the skills and knowledge necessary to meet the needs of students with disabilities.

Reference: Education Law §§ 1709(1)-(2); 1711(2)(b); 3602(19); 4401 et seq.
20 U.S.C. § 1400 et seq.
34 CFR §§ 300.12; 300.503.
8 NYCRR Part 200

Revised: August 21, 2001; March 20, 2007

PROGRAMS FOR STUDENTS WITH DISABILITIES REGULATION

The District is committed to providing Special Education services and programs to meet the unique needs of students with disabilities. The District has therefore developed this regulation to comply with the directives of the Individuals with Disabilities Education Act (IDEA) and New York State Education Law and Regulations.

A. Committee on Special Education

The Board of Education shall appoint a Committee on Special Education (CSE) composed of:

1. the parent(s) or person(s) in parental relationship to the student;
2. one (1) regular education teacher of the student;
3. one (1) Special Education teacher or Special Education provider of the student;
4. school psychologist;
5. representative of the District who is qualified to provide or supervise Special Education and who is knowledgeable about the general education curriculum and the availability of District resources;
6. an individual who can interpret the instructional implications of evaluation results;
7. school physician, if requested in writing by the parent 72 hours prior to the meeting;
8. additional parent member of a student with a disability residing in the District or neighboring school district;
9. other persons with knowledge or special expertise regarding the student as the District or parent(s) shall designate; and
10. the student, if appropriate.

B. Sub-Committee of the Committee on Special Education

The membership of the Sub-Committee of the CSE shall be composed of:

1. the parent(s) or person(s) in parental relationship to the student;
2. one (1) regular education teacher of the student;
3. one (1) of the student's Special Education teachers or Special Education provider of the student;
4. representative of the District who is qualified to provide, administer or supervise Special Education and who is knowledgeable about the general education curriculum and the availability of District resources;
5. school psychologist, when a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ratio is considered;
6. an individual who can interpret the instructional implications of evaluation results;
7. other persons having knowledge or special expertise regarding the student, as the Committee or the parent(s) shall designate; and
8. the student, if appropriate.

C. Identifying Children With Disabilities

The CSE shall identify students with disabilities who are in need of special services or programs and shall develop an Individualized Educational Program (IEP) for each student.

The District shall conduct a census in accordance with the Education Law to locate and identify all children with disabilities who reside in the District and establish a register of such children who are entitled to attend the District. The register shall be maintained in accordance with the Commissioner's Regulations and revised annually by the CSE.

A student suspected of having a disability shall be referred, in writing, to the CSE Chairperson or Building Principal. A referral may be made by a student's parent, professional staff member of the school the student attends, physician, judge or a public agency with the responsibility for the welfare, health or education of children or a child over the age of 18.

D. Evaluation

Upon receipt of written notification that a student is suspected of having a disability, the CSE chairperson shall notify the child's parent/guardian that a referral has been made and request consent for the individual evaluation.

The CSE shall ensure that an individual evaluation of the student is conducted at no cost to the parent/guardian, and must be completed within sixty (60) days of receiving parental consent for the evaluation.

The evaluation shall include at least: a physical examination, a social history, a classroom observation, a psychological evaluation unless determined unnecessary by the school psychologist, and other appropriate assessments, i.e. functional behavioral assessment, or evaluations, as necessary, to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.

The evaluator shall submit a written report to the CSE which shall include a detailed statement of the child's individualized educational needs and, if the child is determined to have a disability, a recommendation as to the frequency and duration of services and the manner in which the child can be provided with instruction in the least restrictive environment. The parent/guardian shall be provided the results of the evaluation and be notified of his/her right to request an informal conference to ask questions regarding the evaluation.

A student determined ineligible for special education must be referred to the Building Principal for a determination of general education support services for the student.

1. Re-Evaluation

The CSE shall conduct a re-evaluation of each student with a disability if the District determines that the educational or related services needs warrant a re-evaluation, or if the student's parent or teacher requests a re-evaluation, but not more frequently than once a year, unless the parent and CSE agree otherwise, and at least once every three (3) years.

The results of any re-evaluations shall be addressed by the CSE in a meeting to review and revise the student's IEP.

E. Individualized Education Program

Following the individual evaluation, if the CSE determines the student has a disability, the Committee shall develop an Individualized Education Program (IEP) for the student. The IEP is a written plan to meet the unique educational needs of each student with a disability. The IEP shall contain those components in accordance with the Regulations of the Commissioner of Education. The IEP shall accurately reflect the results of evaluations to identify the student's needs, establish annual goals related to those needs, and provide for the use of appropriate Special Education services.

For a student not previously identified as a student with a disability, the CSE must provide a recommendation to the Board of Education, which shall arrange the appropriate Special Education programs and services, if necessary, within sixty (60) school days of receipt of the consent to evaluate.

For a student with a disability referred to the CSE for an annual review, a recommendation shall be provided to the Board of Education, which shall arrange the appropriate Special Education programs and services, if necessary, within sixty (60) school days of the referral for review of the student with a disability.

If the Board disagrees with the recommendation of the CSE, the Board shall follow one of the following procedures:

- The Board may remand the recommendation to the CSE with a statement of the Board's objections/concerns and request that a timely meeting be held to review such objections/concerns. The CSE shall consider the Board's objections/concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree, it may continue to send the recommendation to the CSE for additional reviews of its objections/concerns; or
- The Board may establish a second CSE to develop a new recommendation for the student. If the Board disagrees with this new recommendation, the Board may remand the recommendation to the second CSE with a statement of its objections/concerns and a request that a timely meeting be held to review and consider the objections/concerns. The second CSE shall consider the Board's objections/concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree with the recommendation of the second CSE, the Board may continue to remand the recommendation for additional reviews of its objections/concerns by the second CSE.

1. 12-Month Special Education Service and/or Program

Students shall be considered for 12-month special services and/or programs in order to prevent substantial regression, if they are:

- a. students whose management needs are determined to be highly intensive;
- b. students with severe multiple disabilities;
- c. students who are recommended for home and hospital instruction;
- d. students whose needs are so severe that they can be met only in a seven-day residential program; or
- e. students who exhibit the need for a 12-month special service and/or program provided in a structured learning environment of up to 12 months duration in order to prevent substantial regression as determined by the CSE.

2. IEP Amendments

Amendments to an IEP made after the annual review may be made by redrafting the IEP or developing a written document to amend the student's IEP. The amendment shall only be made if the parent shall receive prior written notice of any changes to the IEP, and provided that the parent receives a copy of the amendment or a revised copy of the entire IEP.

F. Annual Review

The IEP of each student shall be reviewed at least annually to determine if the goals of the student are being achieved. Documents considered at the annual review by the CSE shall consist of a student's IEP and any other relevant and current information pertaining to the student's performance.

G. Due Process Procedures

1. Prior Written Notice

Prior written notice must be given to the parent of a student with a disability within a reasonable time before the District proposes to or refuses to initiate or change the identification, evaluation, educational placement of the student or the provision of a free appropriate public education to the student. The prior written notice must be provided in the native language of the parent or other mode of communication used by the parent, and contain those items in accordance with the Regulations of the Commissioner of Education. The parent of a student with a disability may elect to receive prior written notice by e-mail communication if the District makes this option available.

2. Consent

The written consent of a parent is required:

- a. Prior to conducting an initial evaluation or re-evaluation.

- Where the parent of the student to be evaluated does not grant consent for an initial evaluation, that parent shall be informed by the CSE chairperson that, upon request, the parent will be given an opportunity to attend an informal conference at which time the parent shall be afforded an opportunity to ask questions regarding the proposed evaluation. If the parent does not request or fails to attend such a conference, or continues to withhold consent for evaluation for a period of thirty (30) days after the date of receipt of a referral, the Board of Education may initiate an impartial hearing.
- b. Prior to the initiation of Special Education to a student who has not previously been identified as having a disability.
- c. Prior to initiation of Special Education services in a 12-month program.
- d. Prior to releasing any personally identifiable information.
- e. Prior to each time the District proposes to access a parent's private insurance proceeds.

If the parent of a student refuses to consent to the provision of Special Education programs and services, the District shall not provide the Special Education program and services to the student and shall not use the due process procedures, i.e. impartial hearing, to challenge the parent's refusal to consent. The District shall not be considered in violation of the requirements to make available a free appropriate public education to the student for the failure to provide such student with the Special Education program and services for which the District requests such consent.

3. Notice of Meetings

When the CSE desires to conduct a meeting, the parent must receive notification in writing at least five (5) days prior to the meeting and in accordance with the Regulations of the Commissioner of Education. The meeting notice may be provided to the parent less than five (5) days prior to the meeting where the parent and the District agree to a meeting that will occur within five (5) days. The parent may choose to receive the notice of meetings via e-mail if the District makes such option available.

The District may conduct a CSE meeting and make a decision without a parent in attendance if the District is unable to convince the parents that they should participate in the decision.

4. Inspection and Review of Education Records

The parent of a student with a disability shall be afforded an opportunity to inspect and review all education records with respect to the identification, evaluation, and educational placement of their child in accordance with the Family Education Rights Privacy Act (FERPA).

5. Procedural Safeguards Notice

The District uses the procedural safeguards notice as prescribed by the Commissioner of Education. The procedural safeguards notice shall be in the native language of the parent or other mode of communication used by the parent. A parent of a student with a disability may elect to receive the procedural safeguards notice by e-mail if the District makes such option available.

The procedural safeguards notice must be given to the parents of a student with a disability, at a minimum one (1) time per year and in addition as follows:

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

6. Mediation

The District encourages parents and the CSE to resolve disputes through a mediation process prior to the filing of a request for an impartial hearing. Mediation is voluntary on the part of all parties. A mediation session shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques, and who is knowledgeable in laws and regulations relating to the provision of Special Education services.

The parties to mediation may be required to sign a confidentiality pledge prior to the mediation.

Where a resolution is reached through mediation, the parties shall execute a legally binding written agreement setting forth the resolution and confidentiality regarding any discussion which occurred in the mediation. If a written agreement is inconsistent with the student's IEP then the student's IEP must be immediately amended to be consistent with the mediation agreement. Where the parents choose not to use the mediation process, the District may offer the parties an opportunity to meet, with a disinterested party from a community dispute resolution center who would explain the benefits of the mediation process, and encourage the parents to use the process.

7. Due Process Complaint

A parent or District may initiate an impartial hearing with respect to any matter relating to the identification, evaluation or educational placement of a student with a disability, or a student suspected of having a disability, or the provision of a free appropriate public education to a student.

The District, within ten (10) days of receiving the complaint, must send to the parent a response that shall include:

- a. an explanation of why the District proposed or refused to take the action raised in the complaint;
- b. a description of other options that the CSE considered and the reasons why those options were rejected;
- c. a description of each evaluation procedure, assessment, record or report the District used as a basis for the proposed or refused action; and
- d. a description of the factors that are relevant to the District's proposal or refusal.

The non-complaining party shall, within ten (10) days of receiving the due process complaint notice, send to the complaining party a response specifically addressing the issues raised in the notice.

8. Impartial Due Process Hearings

The request for an impartial due process hearing must be submitted within two (2) years of the date the parent knew or should have known about the alleged action that forms the basis of the complaint.

Prior to the impartial due process hearing, the District shall, within fifteen (15) days of receiving the due process complaint notice from the parent, convene a meeting/ resolution session with the parents and the relevant member or members of the CSE, where the parents of the student discuss their complaint and the facts that form the basis of the complaint. The parent and the school district may agree, in writing, to waive the resolution session.

If the parent and District reach an agreement to resolve the complaint at a resolution session, the parties shall execute a legally binding agreement that is signed by both the parent and a representative of the District who has the authority to bind the District.

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 commence.

The decision of the impartial hearing officer shall be binding upon both parties unless appealed to the New York State Education Department Review Officer.

9. Student's Status During Proceedings

During the pendency of any proceedings the student shall remain in the then current placement of such student, unless the Board of Education and parents otherwise agree.

H. ELIGIBILITY

A student continues to be eligible for a free appropriate public education until the end of the school year in which the student turns age 21, or until receipt of a High School diploma. The District shall not conduct a re-evaluation of a student before the termination of a student's eligibility for special education services due to graduation or the student attaining the age of 21. The District shall provide each student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting his/her postsecondary goals.

Issued: July 1, 1997

Revised: March 21, 2007