

PRE-SCHOOL SPECIAL EDUCATION

The Board of Education recognizes the value of Special Education and its responsibility in ensuring that all resident pre-school children with disabilities have the opportunity to participate in special programs and services from which they may benefit. The Board authorizes the Superintendent of Schools to establish administrative practices and procedures to carry out this responsibility. Such administrative practices and procedures shall include:

1. Locating and identifying all pre-school children with disabilities pursuant to the relevant provisions of the Education Law and Regulations during the ensuing year. The register of children eligible to attend a pre-school program is to be maintained and revised annually by the Committee on Pre-school Special Education (CPSE).
2. Ensuring that the parents of pre-school age children with disabilities have received and understand the request for consent for evaluation of their child.
3. Developing an Individualized Education Program (IEP) for each pre-school age child with a disability.
4. Appointing and training appropriately qualified personnel including the members of a CPSE.
5. Maintaining lists of State Education Department approved Special Education programs within the county and adjoining counties in which the District is located.
6. Reporting to the State Education Department the number of children with disabilities that are being served, as well as those not served.

The Board of Education hereby establishes the CPSE as required under the Education Law and Regulations. Its responsibilities will include the evaluation and recommendation for placement in appropriate approved programs and the provision of appropriate Special Education programs and services for each pre-school child with a disability. The CPSE shall review, at least annually, the status of each pre-school child with a disability.

It is ultimately the responsibility of the Board to determine the appropriate approved pre-school program and services for District children. Should the Board's determination differ from parent or guardian preference or the CPSE recommendations, it must set forth its reasons for reaching a different conclusion. Placement may be appealed by a parent or guardian to an impartial hearing officer, appointed by the Superintendent.

The Board directs the Superintendent to ensure that the District considers that adequate and appropriate space is made available for such programs and services.

The Board also directs the Superintendent to develop and maintain a two (2) year plan which incorporates information concerning the provision of services for pre-school children with disabilities, pursuant to the Regulations of the Commissioner of Education.

SOUTH COLONIE

4321.2

Reference: 20 U.S.C. §§ 1400 et seq.
34 C.F.R. §§ 300.12; 300.503
Education Law § 4410
8 NYCRR Part 200

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PRE-SCHOOL SPECIAL EDUCATION REGULATION

The District is committed to providing Special Education services and programs to meet the unique need of pre-school students with disabilities. In accordance therewith, the District has developed this regulation to comply with the directives of the Individuals with Disabilities Education Act and New York State Education Law and Regulations.

Children with disabilities may be determined eligible for pre-school Special Education programs and services by their third birthday or earlier.

If the child's birthday falls before July 1, the child is eligible on January 2 of the calendar year, otherwise a child is eligible on July 1 of the calendar year. A child is a pre-school child with a disability through the month of August of the school year in which the student first becomes eligible to attend school.

Children with birth dates between January 1 and June 30 are first eligible for pre-school services on January 2 of the calendar year during which they turn three (3) years old. Children with birth dates that fall on July 1 through December 31 are first eligible for pre-school services on July 1 of the calendar year during which they turn three (3) years old.

A. Committee on Pre-School Special Education

The Board of Education shall appoint a Committee on Pre-school Special Education (CPSE) composed of:

1. parents of the pre-school child;
2. one (1) regular education teacher of the student;
3. one (1) Special Education teacher or Special Education provider of the student;
4. 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 pre-school Special Education programs and services;
5. additional parent member of a student with a disability residing in the District or neighboring school district;
6. an individual who can interpret the instructional implications of evaluation results;
7. other persons with knowledge or special expertise regarding the student as the District or parent(s) shall designate;
8. for a child in transition from early intervention programs and services, an individual designated by the agency that has been charged with the responsibility for the pre-school child; and
9. representative of the municipality of the pre-school child's residence.

B. Identifying Pre-School Children With Disabilities

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 children who are eligible to attend a pre-school program in accordance with Section 4410 of the Education Law. The register shall be maintained and revised annually by the CPSE. Census data shall be compiled and maintained in accordance with Section 200.2(a) of the Regulations of the Commissioner of Education.

The CPSE Chairperson shall receive notification of a child's potential transition to pre-school Special Education from the New York State Department of Health Early Intervention Program. The CPSE chairperson shall participate in the transition conference with the service coordinator and parent at least ninety (90) days prior to the date the child is first age eligible for pre-school education.

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

The CPSE shall provide a recommendation to the Board of Education within thirty (30) school days of the date of receipt of the consent.

C. Evaluation

The CPSE must arrange for the evaluation of a pre-school child. The CPSE has the primary responsibility to identify and authorize specific components of each individual pre-school evaluation. The parent shall select, from a list maintained by the District, an approved program with a multidisciplinary evaluation component to conduct an individual evaluation.

The initial multidisciplinary evaluation of a pre-school student must include:

1. physical examination in accordance with §§ 903, 904 and 905 of the Education Law;
2. individual psychological evaluation;
3. social history;
4. observation of the pre-school child in his/her current educational placement; and
5. other appropriate assessments or evaluations.

Upon completion of the evaluation, the CPSE must provide a copy of the evaluation to the parent. If the parent disagrees with the evaluation, the parent may obtain an Independent Education Evaluation (IEE) at public expense.

The CPSE's recommendation shall be developed at a CPSE meeting. A written report of the recommendation, including the results of the evaluation shall be forwarded to the Board of Education, the parent of the student and to the municipality in which the student resides.

If the student has been determined to be ineligible for Special Education, the recommendation shall indicate the reasons the student was found to be ineligible.

1. Re-Evaluation

The CPSE 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 CPSE agree otherwise, and at least once every three (3) years. The results of any re-evaluations shall be addressed by the CPSE in a meeting to review and revise the student's IEP.

D. Individualized Education Program

Following the individual evaluation, if the CPSE determines the child has a disability, the members shall recommend approved appropriate services and/or special programs and the frequency, duration, location and intensity of such services including, but not limited to, the appropriateness of single services or half-day programs based on the individual needs of the pre-school child.

Before the CPSE recommends any program, the Committee must first consider the appropriateness of providing related services only, Special Education itinerant services only, related services in combination with Special Education itinerant services, a half-day pre-school program, or a full-day pre-school program. If it is determined that a child needs a single related service, the service must be provided as a related service only or, where appropriate, as a special itinerant service.

Prior to recommending a program which provides Special Education services in a setting which includes only pre-school children with disabilities, the CPSE must first consider programs in a setting where age appropriate peers without disabilities are typically found. Settings which do not provide contact with non-disabled children may only be considered when the nature or severity of the child's disability is such that education in a less restrictive environment with the use of supplementary aids and services cannot be satisfactorily achieved.

Twelve-month special services and/or programs shall be provided to eligible pre-school children consistent with their individual needs, as specified in the IEP.

The IEP of a pre-school student shall be implemented within sixty (60) school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within sixty (60) days of the referral for review of a student with a disability.

Services of a program shall commence with the July, September, or January starting date of the approved program. Should the recommendation of the CPSE be given thirty (30) days prior to or after such starting date for the program selected for the child, services shall be provided no later than thirty (30) days after the recommendation of the CPSE.

E. Annual Review

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

F. Due Process Procedures**1. Prior Written Notice**

Prior written notice must be given to the parent of a student with a disability 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 notice shall, for parents of pre-school students referred to the CPSE for the first time, request parental consent to the proposed evaluation and advise the parent of the right to consent or withhold consent to an initial evaluation or to the initial provision of Special Education services. The notice must also include a descriptive list of each pre-school program which has been approved by the Commissioner of Education to provide evaluations, and the procedures which the parent should follow to select a program to conduct an evaluation.

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 school 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 CPSE 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 school 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 to be 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 CPSE 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 notice must inform the parent of the opportunity to address the CPSE in person or in writing.

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

4. Inspection and Review of Education Records

The parents 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 CPSE 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, 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 CPSE 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 CPSE, 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. A student with a disability is not required to remain in a pre-school program for which he/she is no longer eligible during the pendency of any proceeding.

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