

4321.1

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PROVISION OF SPECIAL EDUCATION SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT

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

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

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

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

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

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

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

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SCHOOL-WIDE PRE-REFERRAL APPROACHES AND INTERVENTIONS

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

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

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

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

Cross-ref: 4000, Student Learning Objectives and Instructional Goals
4325, Academic Intervention Services

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

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ALLOCATION OF SPACE FOR SPECIAL EDUCATION PROGRAMS

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

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

The district will address such space allocation needs as part of its annual budget cycle, during the annual or any more frequent re-evaluation of its long-range educational facilities plan, and as part of the biannual plan it must submit to the commissioner of education regarding the provision of services to students and preschool students with disabilities.

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

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

1. Periodically gather information regarding the number of students and preschool students with disabilities presently participating and anticipated to continue to participate in the district's special education programs and services, the type of programming they presently receive and may receive in the future, as well as the setting in which those services are and/or will be provided.
2. Review the results of the district's latest census, and other district child find efforts, including child find activities conducted with respect to parentally-placed nonpublic school students with disabilities.

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3. Anticipate any projected increase in the number of students and preschool students with disabilities the district will be responsible for providing special education programs and services to, the anticipated type of services they will be receiving and the settings in which those services will be provided.
4. Based on the above information, review current space capacity, and identify any additional space requirements to meet both current and future needs.
5. Submit a report to the board regarding the results of the above review process, along with necessary recommendations for additional space allocations.

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

Ref: Individuals with Disabilities Education Act, 20 USC §§1400 et seq.
Education Law §§3602(10)
8 NYCRR §§155.1(a); 200.2(c)(iv),(v); 200.2(g)

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INDEPENDENT EDUCATIONAL EVALUATIONS

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

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

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

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

Cross-ref: 4321, Programs for Students with Disabilities

Ref: 20 USC §1415(d)(2)(A)
34 CFR §300.502
8 NYCRR §§200.1(z); 200.5(a); 200.5(b); 200.5(c); 200.5(g)

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**CONFIDENTIALITY AND ACCESS TO INDIVIDUALIZED EDUCATION
PROGRAMS, INDIVIDUALIZED EDUCATION SERVICES PROGRAMS AND
SERVICE PLANS**

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

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

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

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

I. IEP, IESP or SP Copies

The CSE, CSE Subcommittee and CPSE Chairpersons shall ensure that a paper or electronic copy of each student's IEP, IESP or SP is provided to each regular education teacher, special education teacher, related service provider and/or other service provider who is responsible for implementation of the program or plan. Other service provider" means a representative of another public school district, charter school, BOCES program, child care institution school, Special Act school district, State-supported school, approved private in-state or out-of-state school and an approved preschool provider where the student receives or will receive IEP, IESP or SP services. These individuals responsible for implementing an IEP, IESP or SP shall, in turn, ensure that all paraprofessionals (teacher aides and teacher assistants) and other providers responsible for assisting in implementation are given the opportunity to review their copy of the IEP, IESP or SP prior to program implementation as well as have ongoing

access to such copy. Further, if a student's IEP is revised during the school year, the CSE office will disseminate copies of the student's IEP to teachers and service providers consistent with Chapter 408 and the implementing sections of Part 200 of the regulations with this policy.

II. Notification of Responsibilities

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

DECLASSIFICATION

If a CSE recommends that a student be declassified and continue to receive accommodations, modifications and/or other support services, such recommendations will be documented on the student's last IEP. Further, the student's IEP will be provided to teachers and other service providers consistent with Chapter 408 and the implementing sections of Part 200 of the Regulations and this policy.

III. Confidentiality

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

IV. Documentation

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

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

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4. has an understanding of the confidentiality requirements.

The dissemination sheet with all signatures needs to be returned to the CSE office when completed.

At the end of the school year or whenever the IEP has been revised, the designated professional employee shall collect all IEP copies provided under this policy and destroy them.

Cross-ref: 4321, Programs for Students with Disabilities Under IDEA and Article 89
5500, Student Records

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.
Family Educational Rights and Privacy Act (FERPA), 20 USC §1232g; 34 CFR Part 99
Education Law §4402(7)
8 NYCRR §§200.2(b)(11); 200.4(e)(3); 200.16(e)(6)
New York State Education Department, Vocational and Educational Services for
Individuals with Disabilities (VESID), SED Guidance Document, Providing copies of the
IEPs for Students with Disabilities, 5/13/03, [vesid.nysed.gov/special
ed/publications/policy/chap408final.htm](http://vesid.nysed.gov/special-ed/publications/policy/chap408final.htm)

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AVAILABILITY OF ALTERNATIVE FORMAT INSTRUCTIONAL MATERIALS FOR STUDENTS WITH DISABILITIES

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

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

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

1. Preference to vendors who agree to provide instructional materials in alternative formats, and to reflect this requirement in the bidding specifications used for the procurement of instructional materials. The same preference will be given to vendors of instructional materials ordered for the school library.
2. Consultation with appropriate school personnel regarding how students will access electronic files. The district's technology staff will be notified of any need to convert electronic files into an accessible format such as Braille, large print, audio, or alternative display.
3. The availability of hardware and/or software a student with disabilities in need of alternative format materials might require to access the instructional material.
4. The yearly review of the district's ordering timelines for the purchase of instructional materials to ensure sufficient lead time for obtaining needed alternative format materials.
5. Notification to appropriate school personnel by the CSE, CSE subcommittee, CPSE and Section 504 Committee Chairperson whenever it is determined that a student needs instructional materials in alternative format. Such notice also will identify the particular alternative format

- needed, and any assistive technology devices or services the student might need to access the alternative format materials.
6. Notification by classroom teachers of the books they will be using in class and any list of required readings with sufficient lead time in anticipation of the district's timelines for the purchase of instructional materials.
 7. Consultation with the school librarian to make sure that specific library resources required by a student in need of alternative format materials to participate and progress in his or her selected courses are made available to the student in an accessible format.
 8. Timely request of state assessments in alternative format.

Cross-ref: 6700, Purchasing

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §§1474(e)(3)(B)
Education Law §§1604(29-a); 1709(4-a) 1950(4-a); 2503(7-a); 2554(7-a); 3602(10)(b)
8 NYCRR §§200.2(b)(10)
State Education Department, Office of Vocational and Educational Services for Individuals with Disabilities (VESID), Policy 02-05 Amendment to Section 200.2 of the Regulations of the Commissioner Implementing Chapter 377 of the Laws of 2001: Plans to Provide Instructional Materials in Alternative Formats for Students with Disabilities, May 2002, available electronically from the VESID website at www.vesid.nysed.gov/specialed/publications/policy/alterformat502.htm

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DISTRICTWIDE AND STATEWIDE ASSESSMENTS OF STUDENTS WITH DISABILITIES

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

Testing Accommodations

Testing accommodations provide an opportunity for students with disabilities to:

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

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

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

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

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

Universal Design Principles in Districtwide Assessments

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

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

1. Made more usable by students with diverse abilities.
2. Designed to better accommodate a wide range of individual preferences and abilities.
3. Made more understandable.

4. Made to communicate necessary information to students more effectively.
5. Designed to minimize adverse consequences of accidental or unintended actions.
6. Used more efficiently and comfortably and with a minimum of student fatigue.

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

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

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IMPARTIAL HEARING OFFICER APPOINTMENT AND COMPENSATION

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

Selection

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

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

The District Clerk or other person so designated, under the direction of the Board President, shall initiate the selection process by contacting the impartial hearing officer whose name first appears after the impartial hearing officer who last served. The District Clerk or designee shall canvass the list in alphabetical order as prescribed by the Regulations of the Commissioner of Education until an appointment is accepted.

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

1. Make a determination on the sufficiency of the due process complaint that will be heard at the hearing within five days of receiving such a request; and
2. Initiate the hearing within the first 14 days after either:

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- The date on which he or she receives written notice that the parents and the district waived their right to hold a resolution meeting to resolve their differences prior to commencement of the hearing, or met but were unable to reach agreement; or
- The expiration of the 30-day period beginning with the receipt of the due process complaint, whichever occurs first.

Appointment

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

The Board will rescind the appointment of an IHO and appoint a new one if, the parties to the hearing mutually agree that the IHO is either incapacitated or otherwise unavailable or unwilling to continue the hearing or issue a decision. The appointment of a new IHO in such an instance will be made in accordance with the selection and appointment procedures established by this policy.

Compensation

The district shall compensate an impartial hearing officer for his or her services at the maximum rate established for such purpose by the Director of the Division of the Budget. Currently, this rate is \$100.00 per hour for pre-hearing, hearing, and post-hearing activities. In addition, impartial hearing officers may be reimbursed for reasonable, actual and necessary expenses for automobile travel, meals and overnight lodging in accordance with the current district reimbursement rate set for district employees. Mailing costs associated with the hearing will also be reimbursed. The District will not reimburse impartial hearing officers for administrative assistance, secretarial or other overhead expenses.

Cancellation

The district shall attempt to provide an Impartial Hearing Officer with two (2) business days' advance notice of the cancellation or re-scheduling of an impartial hearing. Should the district request the cancellation or re-scheduling of a hearing date and fail to provide an Impartial Hearing Officer with two (2) days notice, the district agrees to pay the Impartial Hearing Officer a fee of \$100.00. The district shall not be responsible for costs associated with a parent or guardian's cancellation or adjournment of a hearing.

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

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

Ref: 8 NYCRR §§200.2; 200.5; 200.21

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DECLASSIFICATION OF STUDENTS WITH DISABILITIES

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

Reevaluation

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

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

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

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

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

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

Declassification Support Services

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

1. For the student, psychological services, social work services, speech and language improvement services, non-career counseling, and other appropriate support services.
2. For the student's teachers, the assistance of a teacher aide or a teaching assistant, and consultation with appropriate personnel.

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

Cross-ref: 4321, Programs for Students with Disabilities

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

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PROGRAMS AND SERVICES FOR PARENTALLY-PLACED NONPUBLIC SCHOOL STUDENTS WITH DISABILITIES

The Board of Education recognizes its responsibility to provide special education services to eligible students with disabilities enrolled by their parents in nonpublic schools located within its district, regardless of whether such students are residents of the district. The scope of that responsibility affects:

1. The district's child find activities for locating, identifying, and evaluating parentally-placed nonpublic school students with disabilities;
2. CSE and CSE subcommittee responsibilities for the development of an individualized education services program (IESP), or a services plan (SP), in the case of an out of state resident, for any such student determined to be eligible for special education services under the IDEA and Article 89;
3. The provision of services to such students;
4. The relationship between the district and nonpublic school officials and nonpublic school parents of students with disabilities, with whom the district is required to consult;
5. The district's data collection and reporting responsibilities; and
6. The district's use of federal funds available under the IDEA.

(Refer to policy 4321, Programs for Students with Disabilities under the IDEA and Article 89 for more information regarding the provision of special education services to students with disabilities enrolled in the district's public schools).

Consistent with applicable law and regulations, this policy does not apply to resident students with disabilities enrolled by their parents in a nonpublic school located within the district's boundaries because of a dispute over the provision of a free appropriate public education. Neither does it apply to charter school students, or to students placed in or referred to private schools by public agencies such as school district placements in approved private schools, Special Act school districts, and state-supported or state-operated schools.

District staff will obtain prior consent from the parent of a parentally-placed nonpublic school student with disabilities, or the student if the student is 18 years or older, for the release of personally identifiable information about the student from records collected or maintained pursuant to the IDEA between the district and the student's district of residence.

Location, Identification and Evaluation of Parentally-placed Nonpublic School Students with Disabilities:

The district's activities for locating and identifying parentally-placed nonpublic school students with disabilities will be comparable to those undertaken for students attending the district's public schools, and will be completed in a comparable time period, as well. However, district staff will consult with nonpublic school representatives and representatives of parents of parentally-placed students with disabilities regarding these activities, in order to ensure the equitable participation and an accurate count of such students.

The district will use the same procedures that apply to the evaluation of the district's public school students to evaluate and reevaluate parentally-placed nonpublic school students with disabilities. (Refer to policy 4321, Programs for Students with Disabilities under the IDEA and Article 89, for more information on those procedures).

CSE Responsibilities:

Once a parentally-placed nonpublic school student with disabilities is determined to be eligible for special education services under the IDEA and Article 89, the CSE or CSE subcommittee will develop an IESP or SP for the student in accordance with the following:

1. If the student is a New York State resident, the CSE or CSE subcommittee will develop an IESP based on the student's individual needs in the same manner and with the same contents as an individualized education program prepared for a public school student.
2. If the student is an out-of-state resident, the CSE or CSE subcommittee will develop an SP for the student in accordance with the IDEA and its implementing regulations.

Provision of Services:

Parents of nonpublic school students with disabilities eligible for special education services under this policy must submit to the Board a written request for such services on or before June 1 preceding the school year for which they want the district to provide services. However, if the student has not been first identified as a student with a disability until after June 1, the parent may submit the written request for services within 30 days after the identification, and the

student will be entitled to services during the current year if the request is submitted before April 1.

The district will provide special education programs and services to parentally-placed nonpublic school students with disabilities with an IESP on an equitable basis, as compared to special education programs and services provided to other students with disabilities attending public and nonpublic schools within the district.

The district will provide special education programs and services to parentally-placed nonpublic school students with disabilities with an SP to the extent required by the IDEA and its implementing regulations, and in consultation with nonpublic school officials and representatives of parents of parentally-placed nonpublic school students with disabilities. In this regard, the district will expend a proportionate amount of the federal funds it receives under the IDEA to provide such services.

The district will provide parentally-placed nonpublic school students with disabilities only services, including materials and equipment, that are secular, neutral, and non-ideological.

Consultation:

The district will consult in a timely and meaningful manner with nonpublic school officials and representatives of parents of parentally-placed nonpublic school students with disabilities regarding the following issues:

1. The process that will be used to locate and identify parentally-placed nonpublic school students with disabilities, including who parents, teachers, and nonpublic school officials will be informed of the process, and how the process will work throughout the school year to ensure that the students can participate in special education and related services.
2. How, where and by whom special education and related services will be provided to such students, and with respect to students with an SP, the types of services that will be provided.
3. With respect to students with an SP, how a proportionate share of the federal funds the district receives under the IDEA will be spent on special education services to such students.
4. The determination of the proportionate amount of the district's IDEA funds available to serve parentally-placed private school students with disabilities, including how that amount was calculated.
5. How services will be apportioned if the proportionate amount of the district's available IDEA funds is not sufficient to serve all parentally-placed nonpublic school students with an SP, and how and when these decisions will be made. Notwithstanding, the district will provide services to students with an IESP, regardless of the apportionment of such federal funds.

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The Superintendent will establish a process for obtaining from nonpublic school officials a written affirmation of their participation in the consultation process. If that affirmation is not secured within a reasonable time, the Superintendent will submit to the State Education Department documentation of the consultation process.

Data Collection and Reporting:

The Superintendent will establish a process for maintaining records and report to the commissioner of education on the number of parentally-placed nonpublic school students who are evaluated, and determined to have a disability, and receive special education services from the district.

Cross-ref: 4321, Programs for Students with Disabilities under the IDEA and New York's Education Law Article 89

Ref: Individuals with Disabilities Education Act (IDEA), 20 USC §612(a)(10)(A); 34 CFR ***
Education Law §§3602-c
8 NYCRR §2002.2 (a)(7)

1st Reading: August 16, 2010
Adopted: September 20, 2010

(X) Required

() Local

() Notice

PUBLIC REPORT ON REVISIONS TO DISTRICT POLICIES, PRACTICES AND PROCEDURES UPON A FINDING OF SIGNIFICANT DISPROPORTIONALITY

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

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

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

Cross-ref: 4321 *et seq.* as appropriate.

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

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() Local

() Notice

PRESCHOOL SPECIAL EDUCATION

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

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

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

The Board of Education hereby establishes the CPSE as required under the Education Law. Its responsibilities will include the evaluation and recommendation for placement in appropriate approved programs and the provision of appropriate special education programs and services for each preschool child with a disability. The CPSE shall review, at least annually, the status of each preschool child with a disability. It is ultimately the responsibility of the Board to arrange for the appropriate approved preschool program and services for the district's children.

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Should the Board disagree with the CPSE's recommendations, it shall send the recommendation back to the CPSE so that they may schedule a timely meeting to review the Board's concerns and to revise the IEP, as deemed appropriate.

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

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

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

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

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

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

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SPECIAL EDUCATION PERSONNEL

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

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

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

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

Cross-ref: 4321, Programs for Students with Disabilities
9240, Recruiting and Hiring
9700, Staff Development

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

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