

**COMMITTEE ON SPECIAL EDUCATION PROCEDURES**

The Board of Education of the North Colonie Central School District (“Board”) adopts the following Procedures for the District’s Committee on Special Education (“CSE”) relating to the identification, referral, evaluation, classification, and education of students with disabilities in the North Colonie Central School District (“District”). The procedures outlined herein are consistent with the District’s written policy relating to Programs for Students with Disabilities Enrolled in the District’s Schools under the IDEA and New York’s Education Law Article 89 (Policy No. 4321) and include the CSE procedures set forth in the regulations of the Commissioner of Education.

**I. New Referrals to the CSE**

(A) A student suspected of having a disability shall be referred in writing to the Chairperson of the CSE or to the building administrator of the school the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs or services.

(B) The District must initiate a referral and promptly request parental consent to evaluate the student to determine if the student needs special education services and programs if a student has not made adequate progress after an appropriate period of time when provided instruction within a multi-tiered problem-solving approach that utilizes systematically applied strategies and targeted instruction. A referral may be made by:

- (1) a student’s parent or guardian including an individual who is acting in the place of a birth or adoptive parent including a grandparent, stepparent, or other relative with whom the child resides;
- (2) a designee of the school district in which the student resides;
- (3) the Commissioner; and/or
- (4) a designee of an education program affiliated with a child care institution with committee on special education responsibility.

(C) A written request that the district or agency refer the student for an initial evaluation may be made by:

- (1) a professional staff member of the school district in which the student resides or the public or private school the student legally attends;
- (2) a licensed physician;
- (3) a judicial officer;

- (4) a professional staff member of a public agency with responsibility for the welfare, health or education of children; or
- (5) a student who is 18 years of age or older, or an emancipated minor, who is eligible to attend the public schools of the District.

(D) Except for written requests for referrals submitted by the student and referrals by parents or judicial officers, the referral must state the reasons for the referral and include any test results, records or reports upon which the referral is based. It must also describe, in writing, efforts made by the school and parent to resolve the difficulties leading to referral or to meet the needs of the student in the general classroom setting, including intervention services, programs or instructional methodologies used to remediate the student's performance prior to the referral. It must also describe the extent of parental contact or involvement prior to the referral.

(E) If a referral is received by the building administrator, it must be forwarded to the CSE Chairperson immediately. If a referral is received by the CSE Chairperson, a copy will be forwarded to the building administrator within five (5) school days of its receipt.

(F) Within ten (10) school days of receiving a written request for referral for an initial evaluation, the District will notify the parent that a referral for an evaluation has been received and either:

- (1) request parent consent to initiate the evaluation; or
- (2) provide the parent with a copy of the request referral; and
  - (a) inform the parent of his/her right to refer the student for an initial evaluation; and
  - (b) offer the parent the opportunity to meet to discuss the request for referral and, as appropriate, the availability of appropriate general education support services for the student, with:
    - the building administrator or other designee of the District authorized to make a referral;
    - the party making the request for referral if a professional staff member of the District; and
    - upon request of the parent or District, any other person making a request for referral must have the opportunity to attend such a meeting.

(G) A professional staff member of the District who made a request for referral that results in a parent referral for special education, must attend any meeting requested by a building

administrator to determine whether the student would benefit from additional general education support services as an alternative to special education and receive a copy of any agreement to withdraw the referral.

The parent will be provided with information regarding the evaluation, the procedural safeguards notice which includes a listing of free or low-cost legal and other relevant services in the area, sources to obtain assistance in understanding the referral and evaluation process, and a copy of A Parent's Guide to Special Education. Translations are provided to assist parents as needed.

## **II. Withdrawal of Referral**

(A) Within ten (10) school days following receipt of CSE referral or copy of a referral, the building administrator may meet with the parent and/or student to discuss educational services presently being offered and to determine whether the student would benefit from additional general education support services as an alternate to special education, including the provision of Educationally Related Support Services, Speech/Language Services, Remedial Instruction, and Academic Intervention Services. The professional staff member who made the referral should also attend this meeting. The building principal must ensure that the parent understands the proceedings of the meeting and must arrange for an interpreter, if necessary.

(B) If at the meeting, the parent and the building principal agree in writing that, with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide the Chairperson of the CSE, the person who made the referral if a professional staff member of the district, the parent, and the student, if appropriate, with copies of the agreement.

(C) The parent and person submitting the referral may also agree in writing to withdraw the referral. The Chairperson of the CSE must provide a copy of the agreement to the parent and the referring person.

(D) All such agreements about withdrawal of a CSE referral must be in writing and must specify the alternative services to resolve the identified learning difficulty of the student and provide the opportunity for a follow-up conference within an agreed period of time to review the student's progress. A copy of the agreement becomes a part of the student's cumulative educational record. A copy of the agreement must be in the native language of the parent.

(E) If the referral to the CSE is not withdrawn by agreement, and the parent does not consent to the evaluation within thirty (30) days of the date of receipt of referral, the Chairperson of the CSE shall document attempts, including, but not limited to, telephone calls made or attempted and the results of those calls and correspondence sent to the parents and any responses received, made by the Chairperson or other representatives of the CSE to obtain parental consent, and shall notify the Board that they may utilize the due process procedures to permit the district to conduct an evaluation of the student without the consent of the parent.

### III. Evaluations and Recommendation

- (A) Parental Consent
- (1) The District must make reasonable efforts to obtain written informed consent of the parent and must have a detailed record of its attempts, and the results of those attempts.
  - (2) Written consent of the parent is required prior to conducting an initial evaluation or reevaluation, except that:
    - (a) parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students;
    - (b) parental consent need not be obtained for a reevaluation if the District can demonstrate that it has made reasonable efforts to obtain that consent, and the student's parents failed to respond;
    - (c) in the event the parent of the student to be evaluated does not grant consent for an initial evaluation, such parent shall be informed by the CSE Chairperson that, upon request, the parent will be given an opportunity to attend an informal conference with the CSE or designated professionals most familiar with the proposed evaluation, the person who referred the student for such an evaluation, and counsel or an advisor of the parent's choice, at which time the parent shall be afforded an opportunity to ask questions regarding the proposed evaluation.
      - (i) If at this meeting the parent and such person initiating the referral agree in writing that the referral is not warranted, the referral shall be withdrawn.
      - (ii) Except in the case of a preschool child, a student who is home instructed, or a student placed in a private school by the parents at their own expense, if the parent does not request or attend such a conference, or continues to withhold consent for evaluation otherwise required for a period of thirty (30) days after the date of receipt of a referral, the Board may pursue the initial evaluation of the student by utilizing the due process procedures established by the Commissioner of Education.
  - (d) If the parents of a student with a disability refuse to give consent for an initial evaluation or reevaluation or fail to respond to a request to provide consent for an initial

evaluation, the District may, but is not required to, continue to pursue those evaluations by using the due process procedures established by the Commissioner of Education.

(B) The Initial Evaluation

- (1) The initial evaluation shall be completed within sixty (60) calendar days of receipt of consent unless extended by mutual agreement of the student's parents and the CSE.
- (2) The initial evaluation will consist of procedures to determine whether a student is a student with a disability and to determine the educational needs of such a student. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education. The evaluation will include a variety of assessment tools and strategies, including information provided by the parent to gather relevant functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability and the content of the student's Individualized Education Program, including information related to enabling the student to participate and progress in the general education curriculum.
- (3) As a part of an initial evaluation, if appropriate, and as part of any reevaluation, a group that includes the CSE, and other qualified professionals, as appropriate, must review existing evaluation data on the student, including evaluations and information provided by the parents of the student, current classroom-based assessments, local or State assessments, classroom-based observations, and observations by teachers and related services providers. The group may conduct its review without a meeting.
- (4) On the basis of that review, and input from the student's parents, the CSE and other qualified professionals, as appropriate, shall identify what additional data, if any, are needed to determine:
  - (a) whether the student has a disability, or in the case of a reevaluation of a student, whether the student continues to have such a disability;
  - (b) the present levels of academic achievement and related developmental needs of the student;
  - (c) whether the student needs special education, or, in the case of a reevaluation of a student, whether the student continues to need special education;
  - (d) whether any additions or modifications to the special education services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum;

The District shall administer tests and other evaluation materials as may be needed to produce this data.

- (5) If additional data are not needed, the District must notify the parents of that determination and the reasons for it and of the right of the parents to request an assessment to determine whether the student continues to be a student with a disability and to determine the student's educational needs. The District is not required to conduct the assessment unless requested to do so by the student's parents.
- (6) The individual evaluation of the referred student must include, at no cost to the parent, at least:
  - (a) a physical examination;
  - (b) an individual psychological examination, except when a school psychologist determines after an assessment of a school age student that further evaluation is unnecessary. Whenever a psychologist determines that a psychological evaluation is unnecessary, the psychologist will prepare a written report of such assessment, including a statement of the reasons the evaluation is unnecessary, which shall be reviewed by the CSE;
  - (c) an observation of the student in the student's learning environment, including the general education classroom setting, or in the case of a student who is less than school-age or out of school, an environment appropriate for a student of that age, to document the student's academic performance or behavior in the areas of difficulty;
  - (d) a social history;
  - (e) other appropriate assessment or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.
- (7) The district will ensure that:
  - (a) assessments and other evaluation materials used to assess a student:
    - (i) are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;

- (ii) are used for purposes for which the assessments or measures are valid and reliable;
  - (iii) are administered by trained personnel in accordance with the instruction provided by those who developed such assessments; and
  - (iv) are selected and administered so as not to be discriminatory on a racial or cultural basis;
- (b) assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a general intelligence quotient;
  - (c) assessments are selected and administered to ensure that, when an assessment is administered to a student with impaired sensory, manual or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, except where those skills are factors which the assessment purports to measure;
  - (d) if an assessment is not conducted under standard conditions, a description of the extent to which it varied from the standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) will be included in the evaluation report;
  - (e) no single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student;
  - (f) the evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or the specialist with certification or knowledge in the area of the suspected disability;
  - (g) the evaluation is sufficiently comprehensive to identify all of the student's special education needs, whether or not commonly linked to the disability category in which the student has been identified;
  - (h) technically sound instruments are used that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors;
  - (i) assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student;

- (j) the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities;
  - (k) students age twelve (12) and those referred to special education for the first time who are age twelve (12) and over, shall receive an assessment that includes a review of school records and total assessments, and parent and student interviews to determine vocational skills, aptitude and interests;
  - (l) the results of the evaluation are provided to parents or persons in parental relationships in their native language or mode of communication unless it is clearly not feasible to do so;
  - (m) assessments of students with disabilities who transfer from one District in the same academic year are coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible to ensure prompt completion of full evaluations;
  - (n) no student shall be required to obtain a prescription for a drug or other substance as a condition of receiving an evaluation.
  - (o) materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability or needs special education, rather than measure the student's English language skills;
- (8) Existing evaluation data on the student will be reviewed, including evaluations and information provided by the child's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observation.
- (9) The CSE will arrange for specialized evaluations where necessary, using appropriate resources outside of the district. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, vocational evaluations and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time. The CSE shall maintain a list of appropriate resources and certified professionals for this purpose.
- (10) When an evaluation is completed, a CSE meeting is scheduled. Reasonable measures will be taken to ensure that the parent attends the meeting. This means:
- (a) a written notice will be sent to parents at least five (5) days prior advising them of the meeting. The parent may elect to receive the notice of

meetings by electronic mail (e-mail) communication if the District makes this option available.

- (b) at least one additional attempt will be made to notify the parents. This may mean additional written notice or a telephone call.
- (c) for a subcommittee meeting, the special education or primary related service provider will make and document attempts to contact the parent. This will include a telephone call and a note sent home with the student. The Special Education Office will be notified to document the attempts.
- (d) the parent and the District may agree to use alternative means of meeting participation, such as videoconferences and conference telephone calls.

#### **IV. Eligibility Determination**

(A) When an evaluation is completed, the CSE, including the parent and, if appropriate, the student, meets to review the evaluation information to determine eligibility for special education and develop an Individualized Education Program (IEP) if appropriate.

- (1) The CSE will consider evaluation information including evaluations provided by the parent. The CSE must ensure the appropriateness of reading and math instruction and that all general education resources including Educationally Related Support Services and Academic Intervention Services have been considered prior to determining that the student should receive special education services.
- (2) In interpreting data for the purpose of determining if a student is a student with a disability and determining the educational needs of the student, the CSE must draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior and ensure that information obtained from all these sources is documented and carefully considered.
- (3) In making a determination of eligibility for special education and related services, a student may not be identified as a child with a disability if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies, lack of appropriate instruction in math or limited English proficiency.

- (4) In determining whether a student has a learning disability, the district may use a process that determines if the student responds to scientific, research-based intervention as part of the evaluation procedures. The district is not required but may elect to consider whether a student has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation or mathematical reasoning.
- (B) A student with a disability remains eligible to receive special education services even if the student is advancing from grade to grade.
- (C) The CSE will ensure that parents receive and understand all evaluation reports and documentation of eligibility in their native language, including the results of required evaluations when the student is determined no longer to be eligible for special education.
- (D) Whenever feasible, the evaluation results are shared with the parents before any meeting to discuss the identification, evaluation or educational placement of the student. Consensus is the preferred decision making process.
- (E) When evaluations are conducted for the purpose of determining a student's eligibility or continuing eligibility for special education, the CSE must give a copy, at no cost, of the evaluation report and the documentation of the determination of eligibility to the student's parent. The results of the evaluation will be provided to the parent in their native language or other mode of communication.
- (F) If the CSE determines that the student is ineligible for special education:
- (1) The CSE will provide notice to the parent of the recommendation. The parent will receive procedural safeguards, a copy of the evaluation report and the documentation of determination for ineligibility.
  - (2) The CSE will provide a copy of the recommendation and appropriate evaluation information to the building administrator for consideration of Educationally Related Support Services to address student's needs.
  - (3) The CSE will provide the recommendation to the Board.
- (G) If the student has been receiving special education services, but it is determined by the CSE that the student no longer needs special education services and can be placed in a regular education program on a full-time basis, the recommendation must:
- (1) identify the declassification support services, if any, to be provided to the student, and/or the student's teachers; and

- (2) indicate the projected date of initiation of the services, the frequency of provision of the services, provided that these services shall not continue for more than one year after the student enters the full-time regular education program.
- (H) If the CSE determines that the student is eligible for special education:
- (1) the CSE will develop a written recommendation (IEP).
  - (2) the CSE will document least restrictive environment considerations.
  - (3) the CSE will document special considerations for students whose behavior impedes learning, students who are deaf or hard of hearing, students who are blind or visually impaired, students with limited English proficiency and students who need assistive technology devices or services.
  - (4) The CSE will provide written notice to parents which includes:
    - (a) a recommendation including options considered and a rationale for rejecting those options not selected;
    - (b) a copy of the evaluation report and the documentation of determination of eligibility;
    - (c) procedural safeguards notice; and
    - (d) request parental consent for initial placement (including, if appropriate, initial recommendation for twelve (12) month programs and services).
  - (5) The CSE will also provide notice to the Board.
- (I) If the CSE determines that the student is eligible for special education, an Individualized Education Program (IEP) must be prepared. In developing the recommendations for the IEP, the CSE must consider:
- (1) the results of the initial or most recent evaluation;
  - (2) the student's strengths;
  - (3) the concerns of the parents;

- (4) the academic, developmental and functional needs of the student including, as appropriate, the results of the student's performance on any general State or district-wide tests; and
- (5) other factors unique to the student's disability.

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

- (1) the student's present level of academic achievement, functional performance and individual needs in academic, social, physical and management areas, including how the disability affects the child's involvement and progress in the general education curriculum;
- (2) each measurable annual goal, including academic and functional goals, shall include the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal during the period beginning with placement and ending with the next scheduled review by the CSE;
- (3) the IEP shall identify when periodic reports on the progress the student is making towards the annual goals, such as through the use of quarterly or other periodic reports that are concurrent with the issuance of report cards will be provided to the student's parents;
- (4) for a student with a disability who takes a New York State Alternative Assessment and for each student with a disability, the IEP will include a description of the short-term instructional objectives and/or benchmarks that are the measurable intermediate steps between the student's present level of performance and the measurable annual goal;
- (5) special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for the child to advance appropriately toward attaining annual goals, to be involved and progress in general education curriculum, and to be educated and participate in activities with other students with and without disabilities;
- (6) the general education classes in which the student will receive consultant teacher services;
- (7) a statement of supports for school personnel on behalf of the student;
- (8) the extent to which the student's parents will receive parent counseling and training, when appropriate;

- (9) any assistive technology devices or services needed for the student to benefit from education, including the use of the devices in the student's home or in other settings;
- (10) the extent, if any, to which the student will NOT participate with non-disabled students in the general education class and in other activities;
- (11) If a student is not participating in a regular physical education program, the extent to which the student will participate in specially designed instruction in physical education, including adapted physical education;
- (12) If the student will participate in an alternate assessment on a particular State or district-wide assessment of student achievement, the IEP shall provide a statement of why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student;
- (13) a statement of any individual testing accommodations to be used consistently for the student in the recommended educational program and in the administration of district-wide assessments of student achievement, and in accordance with department policy, State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student; and
- (14) the projected date for the initiation of special education, related services and modifications, the anticipated frequency, location, and duration of those services and the projected date of review of the student's continued need for such services.

## **V. Transition Services**

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

(A) Under the student's present levels of performance, a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities;

(B) Appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;

(C) A statement of the transition service needs of the student that focuses on the student's course of study, such as participation in advanced-placement courses or a vocational education program;

(D) Needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and a functional vocational evaluation; and

(E) A statement of the responsibilities of the District and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

## **VI. Consideration of special factors**

(A) The CSE must include a statement in the IEP if, in considering the special factors listed below, it has determined a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.

- (1) In the case of a student whose behavior impedes his or her learning or that of others, the CSE must consider when appropriate, strategies, including positive behavioral interventions, and supports to address that behavior.
- (2) In the case of a student with limited English proficiency, the CSE must consider the language needs of the student as such needs relate to the student's IEP.
- (3) In the case of a student who is blind or visually impaired, the CSE must provide for instruction in Braille and the use of Braille unless the CSE determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or use of Braille is not appropriate for the student;
- (4) The CSE must consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.
- (5) The CSE must consider whether the student requires assistive technology devices and services, including whether the use of school-purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education;

**VII. IEP Implementation, Distribution and Placement**

(A) Within sixty (60) school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within sixty (60) school days of the referral for review of the student with a disability, the Board must arrange for appropriate special programs and services.

- (1) If a recommendation is for placement in an approved in-state or out-of-state private school, the Board shall arrange for such programs and services within thirty (30) school days of the Board's receipt of the recommendation of the CSE.
- (2) Notice of the recommendation and procedural safeguard notice must also be provided to the parent.

(B) If the Board disagrees with the CSE's recommendations, the Board may remand the recommendation back to the CSE for reconsideration and provide notice to the parent. The Board may also establish a second CSE to develop a new recommendation for the student.

- (1) If the Board disagrees with the recommendation of the second CSE, it may remand the recommendation back to the second CSE for additional reviews.
- (2) The Board must accept the recommendation of the second CSE once the Board authorizes it to make a new recommendation.

(C) In all cases, the Board must arrange for programs and services within sixty (60) school days of receipt of consent to evaluate, except in those instances described above.

(D) The CSE must ensure that:

- (1) each student with a disability has an IEP in effect at the beginning of each school year;
- (2) each general education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of a student's IEP, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP;
- (3) a paraprofessional and all other service providers responsible for assisting in the implementation of a student's IEP, has the opportunity to review a copy of the student's IEP prior to the implementation of the program, and has ongoing access to a copy of the IEP;
- (4) each regular and special education teacher, related service provider, other service provider, paraprofessional and other provider and support staff person has been

informed, prior to the implementation of the IEP, of his or her specific responsibilities related to implementing the student's IEP and the specific accommodations, program modifications, supports and/or services that must be provided for the student in accordance with the IEP; and

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

(E) The district must provide special education and related services to a student with a disability in accordance with the student's IEP and make a good faith effort to assist the student to achieve the annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.

(F) Parental consent must be obtained prior to the initial provision of special education to a student who has not previously been identified as having a disability. Consent for initial evaluation may not be construed as consent for initial provision of special education services.

- (1) If the parent of the student refuses to consent or fails to respond to a request to provide such consent to the initial provision of special education programs and services, the District shall not provide the special education programs and services to the student and shall not use the due process procedures set forth in the regulations of the Commissioner of Education to challenge the parent's refusal to consent.
- (2) The District will not be considered to be in violation of the requirements to make available a free appropriate public education to the student because of the failure to provide such student with the special education program and services for which the parent refuses to or fails to provide consent.
- (3) The District will not be required to convene a meeting of the CSE or develop an IEP for the student.
- (4) If, at any time subsequent to the initial provision of special education programs and services, the parent of a student revokes consent in writing for the continued provision of special education programs and services:
  - (a) The District may not continue to provide any special education programs and services to the student, but must provide prior written notice before ceasing the provision of special education programs and services.
  - (b) The District may not use the due process procedures described in the Commissioners regulations to obtain agreement or a ruling that the services may be provided to the student.

- (c) The District will not be considered to be in violation of the requirement to make available a free appropriate public education to the student because of the failure to provide the student with further special education programs and services;
  - (d) The District will not be required to convene a meeting of the CSE on special education or develop an IEP for the student for further provision of special education programs and services; and
  - (e) The District is not required to amend the student's education records to remove any references to the student's receipt of special education programs and services because of the revocation of consent.
- (5) A District may not use a parent's refusal to consent to one service or activity during the initial evaluation to deny the parent or child any other services, benefit, or activity of the District.

#### **H. Transfer Students**

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

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

(C) To facilitate the transition of a student with a disability who enrolls in the District, reasonable steps must be made to promptly obtain the students records, including the IEP and supporting documents and any other records relating to the provision of special education services to the student, from the previous school in which the student was enrolled.

#### **I. Annual Review, Reevaluation and Declassification**

(A) The IEP of each student with a disability must be reviewed, and if appropriate, revised periodically, but not less than annually to determine if the annual goals for the student are being achieved.

- (1) Parents must be given prior written notice at least five (5) days prior to the meeting and reasonable measures should be taken to ensure that the parent attends the meeting.
- (2) This review is conducted to determine the child's present levels of performance and educational needs, continued eligibility and need for special education service, and whether any modifications or additions to the special education and related service program are needed to enable the child to meet the measurable annual goals of the IEP.
- (B) The annual review will consider:
  - (1) the strengths of the student;
  - (2) the concerns of the parents for enhancing the education of their child;
  - (3) the results of the most recent evaluations including, as appropriate, the results of any general State or district- wide assessments;
  - (4) the student's academic, developmental and functional needs;
  - (5) the educational progress and achievement of the student; and
  - (6) the student's ability to participate in instructional programs in regular education and in the least restrictive environment.
- (C) The CSE must obtain informed parental consent prior to conducting any new test or assessment as part of a reevaluation of a student with a disability (see discussion in Section (III)(A) concerning need for parental consent).
- (D) As part of any reevaluation, a review of existing evaluation data, including evaluations and information provided by the student's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observations, is conducted to determine what additional data, if any, is needed. This review will not constitute a CSE meeting.
- (E) If no additional data is needed to determine whether the student continues to be a student with a disability, the parents are notified of the determination and the reasons for it. The parent is notified of the right to request an assessment and that the district is not required to conduct such an assessment unless requested by the student's parents.
- (F) The CSE will arrange for an appropriate reevaluation of each student with a disability:

- (1) if the district determines that the educational or related service needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or
  - (2) if the student's parent or teacher requests a reevaluation, but not more frequently than once a year, unless that parent and representative of the District appointed to the CSE agree otherwise.
- (G) A reevaluation shall take place at least once every three (3) years and will be conducted by a multidisciplinary team or group of persons, including at least one teacher or other specialists with knowledge in the area of the student's disability.
- (1) The parent and the District may agree in writing that a three-year reevaluation is unnecessary.
  - (2) If conducted, the three-year evaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education.
- (H) The results of any reevaluations must be addressed by the CSE in a meeting to review and, as appropriate, revise the student's IEP. To the extent possible, the District must encourage the consolidation of reevaluation meetings and other CSE meetings for the student.
- (I) When evaluations are conducted with the purpose of determining continuing eligibility for special education, the CSE will provide a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent.
- (J) After an IEP has been developed at the annual review meeting, a parent and the District may agree not to convene a meeting of the CSE to make changes to a student's IEP, and instead may develop a written document to amend the student's IEP.
- (1) Such amendment may be made under the following circumstances:
    - (a) the parent makes a request of the district for an amendment to the IEP and the parent and the district agree in writing; or
    - (b) the District provides the parent with a written proposal to amend a provision or provisions of the IEP that is conveyed in language understandable to the parent, and informs and allows the parents the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes.
  - (2) The parent must agree in writing to such amendments and must be provided prior written notice (notice of the recommendation) of the changes to the IEP.

- (3) The CSE must be notified of any changes made to the IEP. The parent must also receive either a rewritten IEP or document that amends or modifies the IEP, or upon parental request, a revised copy of the entire IEP with amendments incorporated.
- (4) Amendments made to an IEP without a meeting do not affect the requirement that the CSE must review the IEP at the annual meeting, or more often if necessary.
- (K) Before determining that a student is no longer eligible to receive special education services, an evaluation needs to be conducted. When the CSE determines that a student no longer requires special education services, the CSE may recommend declassification support services to the student for no more than the first year in regular education. Such services may include psychological, social work, speech and language services, non-career counseling, or the assistance of an aide or consultant to the classroom teacher.
- (L) Continuation of test modifications upon declassification is not automatic. The CSE may determine that the test modifications previously documented in a student's IEP must continue to be consistently provided to the student for the balance of his or her public school education.
- (M) The District is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regent's diploma or exceeding the age eligibility for a free appropriate public education, but is required to provide the student with a summary of his or her academic achievement and functional performance, which includes recommendations on how to assist the student in meeting his or her post-secondary goals.

Adopted: October 24, 2011