

### Children with Disabilities

A child with a disability means a student under the age of twenty-one (21) who is entitled to attend public schools and who, because of mental, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. A child is not considered as having a disability if his/her educational needs are due primarily to unfamiliarity with the English language or environmental, cultural or economic factors or lack of appropriate instruction in reading or mathematics.

If the State Education Department finds that the district has inappropriate policies, procedures or practices resulting in a significant disproportionality by race/ethnicity in the suspension, identification, classification and/or placement of students with disabilities, the district will ensure that it publicly reports on the subsequent revisions to those policies, procedures or practices.

The Board of Education recognizes the existence of individual differences in the intellectual, social, emotional and physical development of children attending school in the district. In recognizing these differences the Board supports a system of services offered in the least restrictive environment for children with disabilities which includes:

- a) Not requiring any student to obtain a prescription for a drug or other substance identified as a controlled substance by the federal Controlled Substances Act as a condition of receiving services;
- b) Education in regular classes with or without support services, education in a resource room, education for part of the day in a special class, full time education in a special class, home instruction and education in a residential setting;
- c) Providing for the education of students with disabilities with non-disabled peers to the extent appropriate; and
- d) Taking the following measurable steps to recruit, hire, train and retain highly qualified personnel to provide special education programs and services:
  1. Utilize established procedures for publication of all potential job openings;
  2. Check credentials and requirements listed on applications;
  3. Provide training sessions for interview committee when deemed necessary;
  4. Special Education teachers are required to have subject matter knowledge appropriate to the level of instruction being provided. When teaching two (2) or more core academic subjects exclusively to children with disabilities, the teacher will meet the requirements of "highly qualified" per the Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) or demonstrate competence in all the core academic subjects taught per state regulations;
  5. Special Education teachers and administrators are required to complete enhanced training in the needs of children with autism when required by applicable State and Federal Laws, Rules and Regulations.

- e) Establishing the following guidelines for the provision of appropriate accommodations necessary to measure the academic achievement and functional performance of the student in the administration of district-wide assessments:
1. Ensure that necessary accommodations are specified on individualized education program (IEP) and implemented in accordance with the IEP;
  2. Review the need for accommodations at Committee on Special Education (CSE) evaluations/re-evaluations;
- f) To the extent feasible, using universal design principles (defined as a concept or philosophy for designing and delivering products and services that are usable by people with the widest range of functional capabilities, which include products and services that are directly usable without requiring assistive technologies and products and services that are made usable with assistive technologies) in developing and administering District-wide assessment programs by:
1. Addressing appropriate universal design principles in IEP;
  2. When appropriate, the Library Media Specialist and/or Curriculum Coordinator keep Committee on Special Education (CSE)/Committee on Preschool Special Education (CPSE) apprised of available products and services utilizing universal design principles;
  3. When available, and where appropriate using instructional materials and activities that allow learning goals to be achieved by individuals with wide differences in abilities;
  4. Striving to use flexible curricular materials and activities are built into the instructional design and operating systems;
  5. Striving that instruction is diversified, so that the ultimate goal is to deliver the general education curriculum to every student and diversify ways students may respond to that curriculum.
- g) Consideration of the location of a school program(s) to a student's residence before placement into an educational program;
- h) Adoption of written policies and procedures so that students with disabilities are provided appropriate opportunities to earn a high school diploma in accordance with Commissioner's Regulations and other applicable Laws, Rules and Regulations.
- i) Allocation of appropriate space within the district for special education programs that meet the needs of students with disabilities.
- j) Striving to have appropriate space continually available to meet the needs of resident students and preschool students with disabilities who attend special education programs provided by Boards of Cooperative Educational Services;

### Provision of Special Education Services to Nonpublic School Students with Disabilities who are Parentally Placed

The **district of location** is responsible for Child Find (including individual evaluations), Committee on Special Education (CSE) meetings, provision of special education services and due process to parentally placed nonpublic school students attending nonpublic schools located in the geographic region of the public school district.

These requirements only pertain to students with disabilities parentally placed in elementary and secondary nonpublic schools, not to parental placements of preschool children with disabilities in private day care or preschool programs; or to CSE placements of students with disabilities in approved private schools, Special Act School Districts, state-supported or state-operated schools or to charter schools.

The actual cost for Committee on Special Education (CSE) administration, evaluations and special education services provided to a student with a disability who is a resident of New York State, but a non-resident to the district of location may be recovered from the student's school district of residence. Because federal regulations require parental consent before any personally identifiable information about the student relating to special education is shared between officials in the public school district of location and officials in the public school district of residence, parent consent to share special education information between the two public school districts is required before billing a district of residence for the cost of special education services provided to the student by the district of location.

Parental consent must be obtained by the school district of location before any personally identifiable information about the student is shared between officials in the public school district of residence and officials in the public school district of location.

The school district of location must consult with nonpublic school representatives and representatives of parents of parentally placed nonpublic school students with disabilities enrolled in nonpublic elementary and secondary schools located within the boundaries of the school district. The school district must engage in consultation regarding the Child Find process and services generally; consultation is not specific to individual students. Individual services are determined by the CSE.

The consultation process must be timely and meaningful and include discussion of:

The school district of location must provide, as appropriate, special education services to an eligible student who legally resides in another state and who is parentally placed in a non-public school located in New York State. The services to be provided to out-of-state students must be documented on a services plan that is developed by the CSE of the district of location. The services plan is the written plan that describes the specific special education and related service that the district of location will provide to the student consistent with the services that the school district of location has determined through the consultation process and in relation to the proportionate shares of federal IDEA Part B dollars to be provided to the student.

### Tuition Reimbursement Claims for Disabled Nonpublic School Students

The parent must comply with the IDEA's pre-hearing notice requirement for tuition reimbursement claims. Specifically, the IDEA directs that at least ten (10) business days before submitting a request for an impartial due process hearing for tuition reimbursement, the parent must give the district written notice of intent to enroll the child in private school at public expense. The purpose of this requirement is to give the public school district's CSE the opportunity to meet and develop a new IEP for the student that addresses the parent's concerns. *A parent who does not provide such written notice within ten (10) days may have his request for reimbursement reduced or denied. In most cases a parent's failure to satisfy these notice requirements is a complete bar to recovery.*

Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446 Sections 612 and 614

Individuals with Disabilities Education Act (IDEA), 20 USC Section 1400 et seq.

20 USC Section 9101(23), 21 USC Section 812(c), 34 CFR Part 300

Education Law Sections 3004(4), 3004(5), 3208, 3242, 3602-c, 4401-4407 and 4410-6

8 NYCRR Sections 52.21, 57-3, 100.5, 100.9, 177.2, 200.2(b), 200.2(c)(2)(v), 200.4(e)(9) and 200.6(a)(1)