

# **THREE VILLAGE CENTRAL SCHOOL DISTRICT**



## **DISTRICT PLAN FOR SPECIAL EDUCATION**

**District Policies, Practices and Procedures for Assuring Appropriate  
Educational Services and Due Process in Evaluation and Placement  
of Students with Disabilities**

## **BOARD OF EDUCATION**

*Deanna Bavlnka, President*

*Susan Megroz-Rosenzweig, Vice President*

*Vincent Vizzo*

*Jonathan Kornreich*

*Dr. Jeffrey Kerman*

*Sharoui Li*

*Irene Gische*

*Inger Germano, District Clerk*

## **CENTRAL OFFICE ADMINISTRATION**

**Cheryl Pedisich**

*Superintendent of Schools*

**Kevin Scanlon**

*Assistant Superintendent*

*Educational Services*

**Jeffrey Carlson**

*Deputy Superintendent*

*for Business Services*

**Gary B. Dabrusky, Ed.D.**

*Assistant Superintendent*

*Human Resources*

## STATEMENT OF ASSURANCES

The **Board of Education of Three Village Central School District**, as a part of a long standing commitment to excellence in education for all students, supports the provision of special education and related services for students with disabilities under the auspices of the Committee on Special Education and the Committee on Preschool Special Education.

In full support of state and federal laws pertaining to students with disabilities, it is the intent of this Board of Education to ensure that the educational needs of special education students are met. To this end, and in full compliance with the Regulations of the Commissioner of Education, the Board has reviewed this District Plan for Special Education.

By action of the Board of Education in a regularly scheduled meeting, the Board has adopted the District Plan for Special Education.

Adopted:

d: DBavlnka

**Deanna Bavlnka**  
**President, Board of Education**  
**Three Village Central School District**

7.8.2021

**Date**

**THREE VILLAGE CENTRAL SCHOOL DISTRICT**  
**DISTRICT PLAN FOR SPECIAL EDUCATION**

**TABLE OF CONTENTS**

<i>Overview.....</i>	<i>Page 1</i>
<i>Committee on Preschool Special Education (CPSE).....</i>	<i>Page 15</i>
<i>Committee on Special Education (CSE).....</i>	<i>Page 24</i>
<i>Additional Evaluation, IEP and Placement Considerations.....</i>	<i>Page 38</i>
<i>Procedural Safeguards.....</i>	<i>Page 59</i>
<i>Records Access and Confidentiality.....</i>	<i>Page 68</i>
<i>Discipline.....</i>	<i>Page 77</i>
<i>Miscellaneous.....</i>	<i>Page 82</i>
<i>District Programs.....</i>	<i>Page 87</i>
<i>District Based Programs for the 2021/2022 School Year.....</i>	<i>Page 102</i>

# **OVERVIEW**

## **GENERAL BOARD OF EDUCATION POLICIES**

**The District is committed to the development and implementation of an appropriate education for students with disabilities who reside in the district in accordance with the following program objectives:**

- to provide a free appropriate education in the least restrictive environment for resident students between the ages of three and twenty-one or until a regular high school diploma has been achieved by the student, whichever shall occur first;
- to conduct an annual census to locate and identify all students with disabilities who reside in the District and report such data to the CSE and CPSE, as appropriate;
- to ensure that students with disabilities have the opportunity to participate in school district programs to the maximum extent appropriate to the needs of each student, including access to general education curriculum, extracurricular programs and activities which are available to other students enrolled in the public schools of the District;
- to ensure that each preschool student with a disability residing in the District has the opportunity to participate in an appropriate preschool program including timely evaluations and placement;
- to establish a Committee on Special Education and a Committee on Preschool Special Education, which are composed of the required members and appropriate qualified personnel and to ensure training for such personnel and other school district staff to enable them to carry out the functions identified in federal and state laws and regulations and to carry out all practices and procedures identified in the plan;
- to ensure that each regular education teacher, special education teacher, related services provider and any other service provider who is responsible for the implementation of a student's Individualized Education Plan (IEP) shall have access of such IEP;
- to provide the human and material resources necessary for the implementation of a full continuum of programs and services to meet the academic, social, physical and management needs of students with disabilities;
- to build a close working relationship between the CSE, CPSE, school staff and school district administrators, parents and community;
- to ensure that special education programs are an integral part of the District's general educational program;

- to ensure the establishment of administrative practices and procedures to implement the provision of Section 200.6(a) of the Regulations of the Commissioner of Education;
- to provide for the establishment of administrative practices and procedures to ensure that parents have received and understand the request for consent for evaluation of a preschool student;
- to ensure that students with disabilities are provided appropriate opportunities to earn a high school diploma in accordance with Section 100.5 of the Regulations of the Commissioner of Education;
- to ensure that a discipline code for student behavior is in place;
- to ensure the confidentiality of personally identifiable data, information or records pertaining to a student with a disability. Such personally identifiable information will not be disclosed except in accordance with the Regulations of the Commissioner of Education;
- to ensure that adequate and appropriate space is made available to meet the needs of preschool and school age students with disabilities;
- to ensure that necessary accommodations are made so that students and their parents have access to services provided by the district;
- to ensure that parents are advised of their due process rights and to establish procedures in this regard; and
- to ensure that students attending school within the district receive the protection of all other applicable state and federal regulations.

## **Board of Education Responsibilities**

### **CENSUS AND REGISTER OF STUDENTS WITH DISABILITIES**

The district is required to conduct a census to locate, identify all children with disabilities who reside in the district including homeless children, wards of the state and children who attend nonpublic schools, and must establish a register of such students and others referred to the CSE or CPSE as possibly having a disability shall be maintained and revised annually by the CSE or CPSE, as appropriate.

The District shall implement procedures to assure the availability of statistical data to readily determine the status of each student with a disability in the identification, location, evaluation, placement and program review process. Census data shall be reported by October 1st to the Committee on Special Education or committee on preschool special education, as appropriate.

The register will include:

- student's name, address and birthdate;
- student's parents' names, address(es), and the native language of the student's home;
- student's suspected disability;
- dates of referral, evaluations, recommendations of the committee on special education, or committee on preschool special education, actual placement, and annual program reviews;
- site where the student is currently receiving an educational program;
- other student information as required by the Individuals with Disabilities Education Act (IDEA) and Federal regulations, including but not limited to the student's race, ethnicity, limited English proficiency status, gender and disability category; and
- if the student is not receiving an appropriate public education, the reason shall be described.
- if the student is not receiving an appropriate public education, the reason shall be described
- other information as the Board of Education shall determine

All persons involved in the collection of data shall have received prior training and written information regarding the procedures to be followed in collecting the data. In connection with the reporting of the data, the District shall prepare and keep on file, summary reports of the student data, including the number of students who are unserved and the reasons they are unserved and those students served. A summary report of the students served shall be submitted by the District to the State Education Department in a manner prescribed by the commissioner. The register will be available to the Superintendent as well. Census data shall be reported to the CSE or SPSE by October 1 of each year. A copy of the census must also be filed with the Superintendent of the Board of Cooperative Educational Services of which the District may be a part.

In addition to the foregoing, procedures to locate, identify, and evaluate all nonpublic private elementary and secondary school students with disabilities, including religious-school children as required by the Education Law must be established to ensure the equitable participation of parentally placed private school students with disabilities and an accurate count of such students. The child-find activities must be similar to activities undertaken for students with disabilities in 21 public schools and must be completed in a time period comparable to that for other students attending public schools in the school district. The school district shall consult with representatives of private schools on the child find process.

If a student is parentally-placed in a private elementary or secondary school that is not located in the student's school district of residence, parental consent, or consent of a student 18 years of age or older, must be obtained before any personally identifiable information about the student is released between officials in the district where the private school is located and officials in the parent's district of residence.

## **SPACE ALLOCATION FOR SPECIAL EDUCATION PROGRAMS**

It is the policy and practice of the Board of Education of the district to ensure, to the fullest extent possible, that students with disabilities residing in the district shall be educated within the school district.



It is the policy and practice of the Board of Education to ensure, to the fullest extent possible, the allocation of appropriate space within the District for special education programs that meet the needs of school-age students with disabilities. Special education services shall not be denied simply because of a lack of appropriate space.

The Three Village Central School District will consider organizing new or additional special education classes whenever five (5) eligible students with similar educational needs who are not already placed in such a program (based upon CSE identification, classification and recommendation) are located in the district. When a present class exceeds the legal limit of either twelve (12) or fifteen (15) students permitted by education law, a variance from the State Education Department will be obtained or a new class will be formed.

Further, it is the policy and practice of the Board of Education to ensure, to the fullest extent possible, that appropriate space will be available to meet the needs of resident students with disabilities who attend special education programs provided by the Board of Cooperative Educational Services (BOCES). At least once per year, a staff member from the District's Special Education Department will visit the placement of each resident student who attends a BOCES special education program to assure the appropriateness of the space allocated for that placement.

The District will continue to provide space, to the extent available, for school-age students from other school districts who need self-contained classes not available in their home schools. The District will also continue to meet with Eastern Suffolk BOCES to work toward N.Y. State Education Department's requirement in developing the regional plan that reduces the number of special education students in center based non-integrated settings.

## **PROCEDURES FOR EVALUATING PROGRAM OBJECTIVES**

Through the use of assessment techniques such as staff reports, interviews with faculty, parents and students, site visits, etc., formative data will be gathered relative to the success of the delineated Board of Education policies. The data will be analyzed to provide summary information to assist the district in decision-making regarding revisions and modifications for programs, services and procedures.

The goal of the special education program in the district is to provide each student with individualized instruction designed to help each student compensate for his or her disability in order to more fully reach his or her potential.

The methods used to evaluate the extent to which the objectives of the special education program have been achieved are:

- Ongoing evaluation of student achievement using various standardized diagnostic tests, state assessments and other teacher made assessments;
- Annual reviews of students' progress and programs, resulting in revised comprehensive IEP's;
- Qualitative techniques such as teacher observations and conferences, classroom observations, anecdotal reports, and end-of-year student summary;
- Re-evaluations of each student with a disability;
- Biennial review of the district plan

## **PLAN TO ENSURE AVAILABILITY OF INSTRUCTIONAL MATERIALS IN ALTERNATIVE FORMATS**

Every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to nondisabled students.

“Alternative format” is defined to 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 disabled student enrolled in the school district. It would include but not be limited to, Braille, large print, open and closed caption, audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

Information on accessible formats can be accessed at the VESID website that was created to assist districts in their search for sources for accessible materials (AIM):

<http://vesid.nysed.gov/speciaed/aim>.

### **Identification of the Needs of Students Residing in the District**

Advance planning in the selection and ordering of books will help ensure that students with disabilities attending their classes receive their instructional materials at the same time as other students in the classes. If the CSE determines that a student needs his or her instructional materials in an alternative format, the IEP will specify the accommodations for the individual student and any related instruction and/or assistive technology devices needed for the student to access the alternative format materials. If the student needs instructional and assessment materials in alternative formats, the CSE should review the following considerations:

- What alternative format is needed?
- What instruction is needed for the student to use the alternative format materials?
- What assessment technology devices or services are needed for the student to access the alternative format materials?
- What supports for school personnel may be needed related to the alternative format(s) recommended?
- What assistance do the parents need to help them acquire skills necessary to support the child’s use of the instructional materials and/or related assistive technology devices?
- What testing accommodations a student might need related to the alternative formats?

### **Access to and Conversion of Electronic Files**

Instructional materials provided in electronic files can offer many flexible options for a student with a disability to access the curriculum when the files are used with a variety of technology and tools such as computer screens using highlighted or enlarged text, screen readers or Braille printers. Students will have access to appropriate software and hardware in order to provide these materials in an alternative format. This would include, but not be limited to computers, printers, scanners, alternative keyboards, Braille note takers, tape recorders, screen readers, speaking browsers, screen magnification devices, scan and read, and Braille translation. The district will also access appropriate agencies and resource centers to assist in the conversion of materials into Braille format.

## **Ordering Timelines**

Braille and large-type test booklets will be obtained from the State Education Department for the Elementary and Intermediate State assessments and each Regents Examination. The Braille and large-type test booklets requested will be included in the regular shipment to the school. These tests will be ordered at the same time that tests are ordered for non-disabled students. If reproduction and/or reformatting of test booklets is required, written advance permission of the State Education Department will be obtained in sufficient time as to administer the test at the same time as administered to non-disabled students. If Braille or large print conversions are requested, the district will request this conversion at least three months in advance of the exam.

The district will inquire of publisher sales representatives about available formats. If the instructional materials needed by the student cannot be purchased in alternative formats, the district will make reasonable efforts to adapt or convert the materials or provide substantially equivalent materials to the student in a format he or she can access. Consideration will be given as to sufficient time to convert these materials so that the student will be able to participate and progress in the general curriculum.

## **Selection and Procurement of Instructional Materials**

The district utilizes a textbook selection committee when considering the purchase of new textbooks or materials. The committee will be informed of the need to give preference to those vendors who agree to provide materials in alternative formats.

When the district selects any new instructional materials for a course, consideration will be given, as one factor, if such materials are available from the vendor in the alternative format(s) needed by the student. Where different textbooks meet the district's criteria for a particular subject matter, the district will give preference to the vendor that agrees to provide materials in alternative formats. If competitive bidding is required for the purchase of instructional material, bid specifications will be drafted to allow the district to select the bidder who can provide materials in alternative formats in a timely fashion by making alternative format availability a specification of the bid.

## **Procedures for New Entrants Students During the School Year**

When a new student enters the district, the CSE will review the student's previous IEP to determine if the IEP has specified the need for materials to be provided in an alternative format. If the IEP indicates that the student requires an alternative format, the district will immediately either provide the necessary software or hardware necessary for the conversion or contact the appropriate agency to either purchase or convert the materials.

If a student requires additional materials in an alternative format, the student's case manager will be responsible to provide this information to the Office of Pupil Personnel Services of specific items that need to be ordered.

## I. DEFINITIONS

**Students with disabilities are those whose special needs are significant enough to warrant the provision of special education services in accordance with an individualized education program. Effective October 30, 1990, Congress substituted the term “*children with disabilities*” for the term *handicapped children* in the Federal Law establishing access to fair procedures and appropriate placements.<sup>1</sup> Hereafter, the terms *students with disabilities* and *students with disability conditions* will be used interchangeably.**

**A.** The following statutory and regulatory definitions are controlling:

The term *student with a disability* means a student with a disability who has not attained the age of twenty-one prior to September 1 and who is entitled to attend public schools pursuant to Section 3202 of New York State Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires special services and programs approved by the Department of Education. Such term does not include a student whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. In making a determination as to eligibility, a student shall not be determined to be a student with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency.

**B.** The term *all students* applies to every student listed on the registry of the District.

**C.** The term *special services or programs* means:

- special classes, transitional support services, resource room, consultant teacher services and home instruction;
- contracts with other districts for special services or programs;
- contracts for special services or programs provided by the Board of Cooperative Educational Services (BOCES);
- appointment by the Commissioner to a state or state supported school in accordance with Article 85, 87, or 88 of the New York State Law;
- contracts with private non-residential schools which have been approved by the Commissioner and which are within the state;
- contracts with private non-residential schools which have been approved by the Commissioner and which are outside the state;

---

<sup>1</sup> Legal Reference: Individual with Disabilities Education Act (IDEA), formerly the Education of the Handicapped Act (EHA), 20 U.S.C. Sections 1400-1485

- contracts with private residential schools which have been approved by the Commissioner and which are within the state;
- contracts with private residential schools which have been approved by the Commissioner and which are outside the state;
- provision of educational services in a residential facility for the care and treatment of students with disabilities under the jurisdiction of a state agency other than the State Department of Education;
- Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students.
- contracts for residential or non-residential placements with a special act school district listed in Chapter 566 of the Laws of 1967; and
- contracts with New York State approved and funded schools (Article 89).

\*\*\*\*\*

### III. SPECIAL EDUCATION PROGRAMS AND SERVICES

In accordance with Section 200.6 of the Regulations of the Commissioner of Education, the District provides a continuum of services which allows placement of preschool and school-age students in the least restrictive environment consistent with their needs and which provides for placement of students on the basis of similarity of individual needs.

#### A. School Calendar:

Special education students participate in the same school calendar as their general education peers.

#### B. Least Restrictive Environment (LRE):

The District provides a wide continuum of services, ranging from placement in residential settings to placement in general education classes with support and related services. The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. ***Least Restrictive Environment*** means that the placement of students with disabilities in special classes, separate schools or other removal from the general educational environment occurs ***only*** when the nature or severity of the disabilities are such that even with the use of supplementary aids and services, education cannot be satisfactorily achieved within the general education class. The placement of an individual student with a disability in the least restrictive environment shall:

- provide the special education needed by the student;
- provide for education of the student to the maximum extent appropriate to the needs of the student with other students who do not have disabilities; and
- be as close as possible to the student's home.

#### C. Procedures to Implement LRE Requirements:

- The student will receive a comprehensive, nonbiased multidisciplinary individual evaluation in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so, to determine his/her educational needs. In making a determination of a student's eligibility, the CSE shall not determine a student to be a student with a disability if the determination factor is lack of instruction in reading or math or limited English proficiency. The CSE must review evaluation information to determine whether any additions or modifications to special education services are needed to enable the student to participate, as appropriate, in the general curriculum.
- Prior to placement in special education, the CSE will ensure that the appropriateness of the resources of the general education program, including educationally related support services, have been considered.

- A student's educational program will be developed with meaningful involvement of the student's parent or guardian, teacher and, when appropriate, the student. The Committee will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. IDEA requires that at least one of the student's general education teachers must be a member of the Committee (if the student is, or may be, participating in the general education environment). In addition, the representative of the school district qualified to provide or supervise the provision of special education services must be knowledgeable about the general curriculum and the availability of resources of the school district. The individual knowledgeable about the evaluation data must be able to interpret the instructional implications of the evaluation results.
- The Committee on Special Education or Committee on Preschool Special Education will first consider placement in general education with appropriate support for the student and the student's teachers. The student's Individualized Education Plan (IEP) must include statements of the student's present levels of educational performance, including how the student's disability affects involvement and progress in the general curriculum; or for preschool age students, as appropriate, how the disability affects the student's participation in age appropriate activities.
- Measurable annual goals, including benchmarks or short-term objectives for CPSE and students who participate in the Alternate Assessment, must be related to meeting the student's needs that result from the disability to enable the student to be involved in and progress in the general curriculum and meeting each of the student's other educational needs that result from the disability.
- Alternative placements, such as special schools or other removal from the general education environment, will be considered **only** when the CSE/CPSE determines that a student's education cannot be satisfactorily achieved even with the use of supplementary aids and services.
- The IEP of the student will include an explanation of the extent to which the student will not participate with students who do not have disabilities. The parent or guardian and the Board of Education will be provided a recommendation from the CSE/CPSE which describes the program and placement options considered for the student and a rationale for why those options were not selected.
- The CSE/CPSE must clearly define expected benefits to the student from the special education program selected in the areas of academic or educational achievement and learning characteristics, social development, physical development and management needs.
- The CSE/CPSE will conduct an annual review of the student's needs for continuation or modification of the provision of special education programs and services. Such review shall consider the educational progress of the student and the student's ability to participate in general education programs. In addition, goals and objectives will be reviewed each quarter for secondary students and each trimester for elementary students, and reported to parents. Review will include the extent of progress toward the goal and the extent to which progress is sufficient to achieve the goal by the end of the year.

- The District is committed to the policy of placing students in the Least Restrictive Environment (LRE) consistent with their needs. The district provides the full continuum of services as described in 200.6 of the Commissioner's Regulations.

**D. Similarity of Needs:**

**Whenever students with disabilities are grouped together for purposes of special education, they are grouped by similarity of need. The CPSE and CSE identify educational needs in accordance with the following factors:**

**1. Academic Achievement, Functional Performance and Learning Characteristics**

The levels of knowledge and development in subject and skill areas, including activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information, and learning style.

**2. Social Development**

The degree or quality of the student's relationships with peers and adults, feelings about self, and social adjustment to school and community environments.

**3. Physical Development**

The degree or quality of the student's motor and sensory development, health, vitality, and physical skills or limitations which pertain to the learning process.

**4. Management Needs**

The nature of and degree to which environmental modifications and human or material resources are required to enable the student to benefit from instruction.

\*\*\*\*\*



## **IV. CSE AND CPSE**

### **A. Appointment:**

To implement its commitment to the education of students with disabilities, the Board of Education annually appoints a Committee on Special Education (CSE) and a Committee on Preschool Special Education (CPSE). The Committees are appointed in accordance with the provisions of New York Education Law, Sections 4402 and 4410 and Section 200.3 of the Regulations of the Commissioner of Education.

### **B. Responsibilities:**

The Committees have the responsibility to ensure that all necessary procedures for the identification, diagnosis, placement and annual review of the status and progress of every student with a disability are carried out in accordance with federal and state law and due process regulations.

### **C. Training CSE/CPSE Members:**

The district is committed to ensuring that all members of the CPSE and CSE are appropriately trained for their responsibilities on their respective committees. Committee members are made aware of their responsibility to ensure that services identified allow the student to be involved in and progress in the general education curriculum. Specific administrative practices for training these members, including general education teachers and parents, to carry out the provisions of Part 200 include:

- arranging for attendance at meetings of Office of Special Education and Rehabilitation Services (OSERS) regarding CSE/CPSE issues;
- conducting district-based training and workshops on a regular basis;
- providing copies of written guidelines pertaining to district practices and procedures for referring and evaluating preschool and school-age students suspected of having a disability;
- participating in annual CSE/CPSE training provided by the New York State Education Department;
- disseminating Part 200 of the Commissioner's Regulations, all amendments to the Regulations of the Commissioner, and informational bulletins and pamphlets, including memorandum from SED, to all committee members;
- inviting committee members to annual site visits of special education placements to familiarize them with placement options available to resident special education students; and
- utilizing RSE-TASC (Regional Special Education Technical Assistance Support Centers) as a training resource and utilizing the district's attorney as a resource person, if needed, to interpret specific information for the committee members.

**D. General Staff Development:**

In an ongoing effort to assist special area and general education teachers to better understand the needs of students with special needs, staff development plays a critical role in preparing teachers to work with diverse learners.

All teachers of the student have access to view IEP/504 Accommodation Plans through Icampus. At the beginning of each school year, the special education teacher will communicate with all appropriate and relevant general education teachers to discuss each student's IEP and to review the modifications and adaptations that may need to be made for each particular student. Teachers need to be aware of each student's area of disability, testing accommodations, needs with regard to specialized equipment (e.g., enlarged print, taped textbooks, use of a calculator, etc.) and any other special accommodations as stipulated in the IEP.

In addition to staff meetings, in-service courses, Superintendent's Conference Day, as well as individual meetings between special and general education teachers, the State Education Department has directed districts to include, as part of its professional development plan, a description of the professional development activities provided to all professional staff and supplementary school personnel who work with students with disabilities to assure that they have the skills and knowledge necessary to meet the needs of students with disabilities.

\*\*\*\*\*

**COMMITTEE ON PRESCHOOL SPECIAL EDUCATION**  
**(CPSE)**

## **I. CPSE MEMBERSHIP**

### **A. Appointment:**

**At its yearly reorganization meeting, the Board of Education shall appoint a Committee on Preschool Special Education (CPSE) composed of at least the following mandated members:**

- the student's parent or guardian;
- the general education teacher of the student, if the student is, or may be, participating in the general education environment;
- the special education teacher or special education provider of the student;
- the CPSE chairperson who is a representative of the district qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities and is knowledgeable about the general curriculum and about the availability of the resources of the local educational agency;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the general or special education teachers, providers or district representatives, described above;
- at the discretion of the parent or district, other individuals who have knowledge or special expertise regarding the student;
- the parent of a preschool or elementary school-age student with a disability who resides in the district and who is not employed by or under contract with the district or the municipality, if specifically requested in writing by the parent of the student, the student or by a member of the committee at least seventy-two (72) hours prior to the meeting;
- for any meetings prior to the initial recommendation for a student for whom services are first being sought, a professional who participated in the evaluation of the student (not a voting member) or a professional employed by the school district who is knowledgeable about the evaluation procedures used and the results obtained;
- for a student in transition from early intervention programs and services, the appropriately licensed or certified professional from the Department of Health's Early Intervention Program; and
- an appropriately licensed or certified professional from the municipality must be notified of scheduled meetings, however, the CPSE meeting can be held whether or not the municipal representative attends.

- B.** Consensus is the preferred decision making process. Parents of the student being reviewed and other knowledgeable persons are encouraged to share information, outside evaluations, and reports with the Committee.

- C. Written notice of CPSE meetings is provided to parents at least five days in advance of the meeting date. Meetings of the CPSE are held in the special education office or remotely, as needed to review referrals throughout the school year and during the summer months.

## **II. DEFINITION: PRESCHOOL STUDENT WITH A DISABILITY**

**Preschool Student With a Disability** refers to a preschool student who has been identified by the Committee on Preschool Special Education (CPSE) who is eligible to receive preschool programs and services, and is not entitled to attend the public schools of the district. To be identified as having a disability, a preschool student shall either exhibit a significant delay or disorder in one or more functional areas related to cognitive, language and communicative, adaptive, social-emotional or motor development which adversely affects the student's ability to learn. Such delay or disorder shall be documented by the results of the individual evaluation which includes, but is not limited to, information in all functional areas obtained from a structured observation, within a natural environment, of a student's performance and behavior, a parental interview and other individually administered assessment procedures and when reviewed in combination and compared to accepted milestones for student development, indicate:

- a 12 month delay in one or more functional area(s); or
- a 33 percent delay in one functional areas, or a 25 percent delay in each of two functional areas; or
- if appropriate standardized instruments are individually administered in the evaluation process, a score of 2.0 standard deviations below the mean in one functional area or a score of 1.5 standard deviations below the mean in each of the two functional areas; or
- meet the criteria as Autistic, Deaf, Deaf-Blind, Hard of Hearing, Orthopedically Impaired, Other Health Impaired, Traumatic Brain Injury or Visually Impaired.

**First Eligible for Services** is the earliest date on which a student becomes eligible for services as defined in current regulations. Students in Family Court placements may, if the parent so chooses, continue to receive such services through August 31<sup>st</sup> of the calendar year in which the student first becomes eligible to receive services under Section 4410. A student can be considered a preschool student with a disability through the month of August of the school year in which he or she first becomes eligible to attend kindergarten.

The Committee shall first consider providing special education services in a setting where age appropriate peers without disabilities are found.

## **III. CPSE PROCEDURES**

### **A. REFERRAL:**

The CPSE is responsible for arranging for evaluation of any student who is suspected of having a disability, who meets the age eligibility requirements specified in the Regulations, and is a resident of the school district.

The evaluation process begins when a written request for evaluation is made by either:

- the student's parent or person in parental relationship;
- a professional staff member of the school district in which the student resides or the public or private school the student legally attends;
- a staff member of a preschool program approved pursuant to Section 4410;
- a staff member of an approved program providing special instruction to students ages birth to 3;
- a staff member of a program serving infants and toddlers or preschool students;
- a licensed physician or judicial officer;
- a representative of a public agency with responsibility for the welfare, care, or education of students; or
- a staff member of the Early Detection Center.

The referral can be made at any time during the school year. It should specify the extent to which the preschool student has received any services prior to referral. When the CPSE receives a referral, the chairperson will write to the parent describing the evaluation procedures and requesting parental consent for the evaluation. A list of County approved evaluation sites will be included. Translations will be provided, as needed. In the event that consent is not provided, the Committee shall implement the district's practices for ensuring that the parents have received and understood the request for consent.

Written consent of the parent or guardian is required to conduct an initial evaluation for a student who has not previously been identified as having a disability. In the event that parental permission is withheld, such parent shall be given the opportunity to attend an informal conference with designated professionals most familiar with the proposed evaluation. If at this meeting a decision is made that the referral is not warranted at this time, the referral shall be withdrawn.

## **B. EVALUATION**

The evaluation will include the following, at no cost to the parent:

- a physical examination;
- an individual psychological examination, except when a school psychologist determines after an assessment that further evaluation is unnecessary;
- an observation;
- a social history;
- other appropriate assessments or evaluations as necessary to ascertain the physical, mental and emotional factors which contribute to suspected disabilities.

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory. The CPSE will arrange for specialized evaluations, where necessary. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process and may be indicated at any time.

When completed, the evaluation reports will be submitted to the CPSE and a CPSE meeting will be scheduled. The parents will be provided with a copy of the summary of the evaluation prior to the meeting and a copy of the evaluation reports at the meeting. The results of the evaluation will be provided to the parents in their dominant language or other mode of communication. Reasonable measures will be made to ensure the parent attends the meeting. This means:

- A written notice is sent to the parents at least five days prior advising them of the meeting.
- At least one additional attempt is made to notify the parents. This may mean an additional written notice or a telephone call.

If the CPSE is considering placing the student in an approved program of the agency that conducted the initial evaluation, the Committee may, at its discretion, obtain a second evaluation from another approved evaluator.

### **C. RECOMMENDATION**

The CPSE submits a recommendation to the Board of Education, to the parent of the preschool student and to the municipality within sixty (60) days of receipt of consent. If the Committee determines the student is ineligible for special education, written notification is sent to the parent indicating the reasons for the finding.

If the Committee determines that a student has a disability, an Individualized Education Plan (IEP) is prepared which indicates the classification of the disability, the student's present levels of functioning, including how the disability affects the student's participation in age appropriate activities, measurable annual goals, including benchmarks or short term objectives, and the type of special education program and/or services recommended. The CPSE will seek, in every case, to recommend placement in the least restrictive environment consistent with the needs of the student. If, for any reason, the recommendation of the Committee differs from the preference of the parent, the report shall include the reasons for the Committee's recommendations. The notice will also indicate that, in the event that the parent does not provide consent for placement, no further action will be taken by the CPSE until such consent is obtained.

#### **D. PLACEMENT**

If the Board of Education agrees with the Committee on Special Education's recommendation, the Board will arrange for the student to receive appropriate special programs and services. Services will not be provided without parental consent, but if the parent disagrees with the recommendation of the Board, he/she may request special education mediation or an impartial hearing review and may appeal the decision to the Commissioner of Education. Review of placement decisions will be conducted in accordance with the same rules of procedural due process applicable to the placement of school aged students. Placement in an approved program will take place as soon as possible following Board approval. If the Board of Education disagrees with the Committee's recommendation, it may remand the recommendation to the Committee for further review.

#### **E. ANNUAL REVIEW**

An annual review is conducted for every preschool student who has been classified as having a disability. Parents are notified by mail (five days prior) of the meeting with reasonable measures taken to ensure that the parent attends the meeting. This review is conducted to consider continued eligibility for services and to determine whether the annual goals for the student are being achieved. The IEP is revised, as needed, to address any lack of expected progress towards annual goals, the results of any reevaluation, information about the student provided to or by the parents, and the student's anticipated needs. A new IEP is prepared at the meeting.

#### **F. WITHDRAWAL OF REFERRAL**

Written consent of the parent or guardian is required prior to initiating an evaluation for a student who has not previously been identified as having a disability. In the event that parent permission is withheld, the parent shall be given the opportunity to attend an informal conference with a designated professional most familiar with the proposed evaluation. If, at this meeting the parent decides that the referral is not warranted, the referral shall be withdrawn.

#### **G. CONTINUUM OF SERVICES**

##### **Program Recommendations**

The CPSE must consider the appropriateness of services to meet the student's needs in the least restrictive environment in the following order:

- related services only
- special education itinerant services only
- related services in combination with special education itinerant services
- an integrated special education preschool program (half or full day)



- a half-day special education preschool program
- full day special education preschool program

If the CPSE determines that a student needs a single service, that service must be provided only as a related service or only as a special education itinerant service. The Committee shall first consider providing special education services in a setting where age-appropriate peers without disabilities are found.

### **Related Services**

Services defined in Section 4401 of the Education Law, including speech-language pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling, orientation and mobility services, medical services as defined by regulation, parent counseling and training, school health services, school social work, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services.

Related Services are provided at a site determined by the Board of Education, including but not limited to:

- an approved or licensed pre-kindergarten or Head Start Program
- the work site of the provider
- the student's home\*
- a hospital
- a state facility
- a student care location as defined in Section 4410

The initial location for the delivery of one or more related services must be stated on the IEP.

## **H. SPECIAL EDUCATION ITINERANT SERVICES (SEIT)**

Provided by a certified special education teacher of an approved program on an itinerant basis at a site determined by the Board of Education, including but not limited to:

- an approved or licensed pre-kindergarten or Head Start Program
- a student's home\*
- a hospital
- a state facility
- a student care location
- worksite of provider

Changes of location for the provision of services may occur without the review of the CPSE.

\*Students are entitled to services in the home if the Board of Education determines that documented medical or special needs indicate that the student should not be transported to another site.

The purpose of Special Education Itinerant Services (SEIT) is to provide:

**Direct Service:** Specialized individual or group instruction to a preschool student to aid such student in benefiting from the Early Childhood program;

**Indirect Service:** Consultations provided by a certified special education teacher to assist the student's teacher in adjusting the learning environment and/or modifying instructional methods to meet the individual needs of a preschool student with a disability who attends an Early Childhood program.

Special Education Itinerant Services are not less than two hours per week and a total number of students with disabilities assigned to the special education teacher should not exceed twenty (20). Related services shall be provided in addition to SEIT services in accordance with the student's IEP.

### **Integrated Special Class**

No more than twelve (12) preschool students staffed by at least one special education teacher and one supplemental school personnel. This class may be provided:

- in a class of no more than twelve (12) preschool students which includes both students without disabilities and students with disabilities; and
- in a class of no more than twelve (12) preschool students with disabilities which is housed in the same space as a preschool class with non-disabled students taught by another teacher.

### **Special Class (Half or Full Day)**

A special class is defined as a class consisting of students with the same disabilities or with differing disabilities who have been grouped together because of similar individual needs for the purpose of being provided a special education program in a special class.

- Chronological age range shall not exceed 36 months.
- Maximum class size shall not exceed 12 preschool students with at least one teacher and one supplemental school personnel.
- Services are provided not less than 2.5 hours per day, 2 days per week.

### **Residential Special Education Programs and Services**

This program is a minimum of five hours per day, five days a week, for twelve months. Placements in residential programs must be approved by the Commissioner, in accordance with 200.6 (I) of the Commissioner's Regulations.

### **Twelve Month Special Education Programs and Services**

Twelve month special services and/or programs shall be provided to eligible preschool students with disabilities consistent with their individual needs, as specified in their individualized education programs. Preschool students with disabilities may be considered for such special services and/or programs in accordance with their need to prevent substantial regression if they are:

- preschool students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention; or
- preschool students with severe multiple disabilities whose programs consist primarily of habilitation and treatment; or
- preschool students whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment in the home; or
- preschool students whose needs are so severe that they can be met only in a seven-day residential program; or
- preschool students, not described above, whose disabilities are severe enough to exhibit the need for a structured learning environment of twelve months duration to prevent substantial regression as determined by the CPSE.

\*\*\*\*\*

**COMMITTEE ON  
SPECIAL EDUCATION  
(CSE)**

## I. CSE MEMBERSHIP

- A. At its yearly reorganization meeting, the Board of Education shall appoint a Committee on Special Education (CSE) composed of at least the following mandated members:
- the student's parent;
  - the general education teacher if the student is, or may be, participating in the general education environment;
  - the special education teacher or special education service provider of the student;
  - the CSE chairperson who is a representative of the district qualified to provide or supervise special education and knowledgeable about the general curriculum and availability of the resources of the local educational agency;
  - an individual who can interpret the instructional implications of evaluation results, such individual may be the individual appointed as the regular or special education teacher or provider, the school psychologist, the representative of the school district or person having knowledge or special expertise regarding the student;
  - at the discretion of the parent or district, other individuals who have knowledge or special expertise regarding the student;
  - whenever appropriate, the student with a disability;
  - a school psychologist;
  - a parent of a student with a disability who resides in the district and who is not employed by, or under contract with, the district or a parent of a student with a disability who has either graduated or has been declassified within five years of the occurrence of either event if requested in writing at least seventy-two (72) hours prior to the meeting;
  - the school physician if requested in writing at least seventy-two (72) hours prior to the meeting by any member of the Committee.
- B. Consensus is the preferred decision making process. Parents of the student being reviewed and other knowledgeable persons are encouraged to share information, outside evaluations and reports with the Committee.
- C. Written notice of meetings is provided to the parents at least five days in advance of the meeting date. Meetings are held in the special education office and in the buildings as needed throughout the calendar year.
- D. The term *student with a disability* includes the following classifications:<sup>2</sup>
1. **Autism** – A student who manifests a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

---

<sup>2</sup> Legal Reference: Regulations of the Commissioner of Education, Section 200.1

2. **Deafness** – A student with a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, such that it adversely affects the student's educational performance.
3. **Deaf-Blindness** – A student with concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that the student cannot be accommodated in special education programs solely for students with deafness or students with blindness.
4. **Emotional Disturbance** – A student exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the student's educational performance:
  - an inability to learn that cannot be explained by intellectual, sensory, or health factors;
  - an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - inappropriate types of behavior or feelings under normal circumstances;
  - a generally pervasive mood of unhappiness or depression; or
  - a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia.

*The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional disturbance.*

5. **Hearing Impairment** – A student with a hearing impairment, whether permanent or fluctuating, that adversely affects the student's educational performance but that is not included under the definition of deaf in this section.
6. **Learning Disability** – A student with a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.
7. **Intellectual Disability** – A student with significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior

and manifested during the developmental period that adversely affects a student's education performance.

- 8. Multiple Disabilities**— A student with concomitant impairments (such as intellectual disability, blindness, orthopedic impairment, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.
- 9. Orthopedic Impairment** – A student who has a severe orthopedic impairment that adversely affects the student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputation and fractures or burns which cause contractures).
- 10. Other Health Impairment** – A student who has limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, including but not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, attention deficit disorder or attention deficit hyperactivity disorder or tourette syndrome, which adversely affects the student's educational performance.
- 11. Speech or Language Impairment** – A student with a communication disorder, such as stuttering, impaired articulation, language impairment or a voice impairment that adversely affects the student's educational performance.
- 12. Traumatic Brain Injury** – A student with an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, anoxia or brain tumors, with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech. The term does not include injuries that are congenital or caused by birth trauma.
- 13. Visual Impairment** – A student with impairment in vision which, even with correction, adversely affects the student's educational performance. The term includes both partial sight and blindness.

## **II MEMBERSHIP OF THE SUB-COMMITTEE ON SPECIAL EDUCATION**

Subcommittees are utilized to review reevaluation and during annual reviews. The subcommittee consists of the following members appointed by the Board of Education.

- the parent or person in parental relationship to the student;
- not less than one general education teacher of the student whenever the student is, or may be, participating in the general education environment;
- not less than one special education teacher, or where appropriate, not less than one special education service provider of the student;
- the sub-CSE chairperson who is a representative of the district who is qualified to provide, administer or supervise special education, is knowledgeable about the general education curriculum and is knowledgeable about the availability of resources of the school district;
- a school psychologist, whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ration, is considered;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described above;
- other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or the parent shall designate. The determination of knowledge or special expertise of that person shall be made by the party who invited the individual to be a member of the sub-CSE; and
- the student, if appropriate.

## **III. CSE PROCEDURES**

### **A. Initial Referral**

In accordance with the New York Education Law Section 4402 and Part 200.2, 200.4 and 200.5 of the Commissioner's Regulations, the CSE is responsible for evaluating all school-age students thought to be disabled, identifying a disabling condition (or determining that no disabling condition exists), and recommending an appropriate type of placement within 60 days of the receipt of consent. Referrals can be made at any time during the school year. A referral may be made by:

- a student's parent or person in parental relationship;
- a professional staff member of the school district in which the student resides, or the public or private school the student legally attends;
- a licensed physician or judicial officer;
- the Commissioner, or designee of a public agency with responsibility for the welfare, health or education of students; or
- the student himself/herself, if such student is 18 years of age or older or an emancipated minor, who is eligible to attend the schools in the district.

All new entrants to the district are screened at the time of enrollment and such screening, if it indicates a possible disability, can lead to a CSE referral. All referrals are made to the chairperson of the Committee. The referral must be written and dated.



Except for self-referrals and referrals by parents or judicial officers, the referral must also:

- state the reason(s) for referral and include any test results, records or reports upon which the referral is based;
- describe attempts to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reason why no such attempts were made; and
- describe the extent of parental contact or involvement prior to referral.

Upon receipt of a referral, the chairperson of the Committee or a building representative of the public school will contact the parent or guardian and request consent for evaluation. A copy of *A Parent's Guide to Special Education* and *Due Process Rights* are given to the parent along with the prior written notice. Translations are provided to assist parents as needed.

Referrals may be withdrawn under the following circumstances:

- The parent and the person submitting the referral agree to the withdrawal.
- The building administrator, within ten (10) days of receipt of the referral, holds a meeting with the parent to discuss whether the student would benefit from alternatives to special education, including the provision of Response to Intervention services, academic intervention services, and remedial instruction. The person making the referral will have the opportunity to attend the meeting. If the person making the referral is a professional staff member of the school district, (s)he must attend. This meeting will not impede a CSE from continuing its duties and functions under Part 200 Regulations. If the parent and building administrator agree that the referral is unwarranted, the referral will be withdrawn.
- Except as otherwise provided in section 200.5(b)(6) of this Part, in the event that parental consent to an initial evaluation is not obtained within 30 days of the date of receipt of referral, the chairperson 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 committee to obtain parental consent, and shall notify the board of education that they may utilize the due process procedures described in section 200.5 of this Part to permit the district to conduct an evaluation of the student without the consent of the parent.
- In all circumstances, the withdrawal agreement will be in writing and will be placed in the student's cumulative educational file, with copies given to all parties involved. The agreement will specify in writing any alternative methods suggested to resolve the student's difficulty and an opportunity for a follow-up conference within an agreed period of time to review the student's progress.

## **B. Evaluation and Recommendation**

**(1)** 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 evaluation will include the following, at no cost to the parent:

- a physical examination; review of health records;

- 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 will be reviewed by the Committee;
- an observation of the student in the student's learning environment (including the regular classroom setting) or, in the case of a student of less than school-age or out of school, an environment appropriate for a student of that age, to document the student's academic performance and behavior in the areas of difficulty; and
- other appropriate assessments 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.
- a social history;

**(2)** The evaluators will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel.

Tests will be administered so as not to be racially or culturally discriminatory. 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 and may be indicated at any time. The CSE shall maintain a list of appropriate resources and certified professionals for this purpose.

A variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parents, will be used 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 be involved in and progress in the general education curriculum. Existing evaluation data on the student will be reviewed, including evaluations and information provided by the student's parents, current classroom-based assessments and observations, and teacher and related service providers' observations.

**(3)** In making a determination of eligibility for special education and related services, a student may not be identified as a student with a disability if the determinant factor is lack of instruction in reading or math or limited English proficiency.

**(4)** When an evaluation is completed, a CSE meeting is scheduled. Reasonable measures will be made to ensure the parent attends the meeting. This means:

- A written notice will be sent to the parents at least five days prior advising them of the meeting.
- At least one additional attempt will be made to notify the parents, which may be in the form of an additional written notice or a telephone call.

Parents are provided with copies of the evaluation reports prior to the CSE meeting. The results of the evaluation will be provided to the parent in their dominant language or other mode of communication. The CSE reviews the results and submits a recommendation to the Board of Education. In addition, the district's evaluation procedures for students suspected of having a learning disability will include written certifications from all members. If the Committee determines the student is ineligible for special education, written notification is sent to the parent/guardian and to the principal, indicating the reasons for the finding and providing instructional recommendations.

**(5)** The parent or eligible student may request an independent educational evaluation (IEE) if they disagree with the evaluation obtained by the school district. An IEE means a procedure, test or assessment done by a qualified examiner who does not work for the school district or other public agency responsible for the student's education. Independent evaluators must meet the same qualifications as school district evaluators and follow the accepted evaluation procedures. If the district is asked to pay for the IEE, the district may request, but not require, the parent to explain the objection to the district's evaluation. Also, the district may request an impartial hearing to show that its evaluation is appropriate.

### **Independent Educational Evaluations.**

(1) Requests by parents. If the parent disagrees with an evaluation obtained by the school district, the parent has a right to obtain an independent educational evaluation at public expense. As per Part 200 regulations, parents are entitled to only one independent educational evaluation at public expense each time the school district conducts an evaluation with which the parent disagrees.

- (i) If requested by the parent, the school district shall provide to parents, information about where an independent educational evaluation may be obtained, and the school district's criteria applicable for independent educational evaluations,
- (ii) The criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria which the school district uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation. A school district may not impose additional conditions or timelines related to obtaining an independent educational evaluation at public expense.
- (iii) If a parent requests an independent educational evaluation at public expense, the school district may ask for the parent's reason why he or she objects to the public evaluation.
  - (a) The explanation by the parent in subparagraph (iii) of this paragraph may not be required and the school district may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint notice to request a hearing to defend the public evaluation.

- (iv) If a parent requests an independent educational evaluation at public expense, the school district must, without unnecessary delay, either ensure an independent educational evaluation is provided at public expense or file a due process complaint notice to request a hearing to show that its evaluation is appropriate or that the evaluation obtained by the parent does not meet the school district criteria.
- (v) If the school district files a due process complaint notice to request an impartial hearing and the final decision is that the school district's evaluation is appropriate, or that the evaluation obtained by the parent did not meet school district criteria, the parent has the right to an independent educational evaluation, but not at public expense.
- (vi) If the parent obtains an independent educational evaluation at public expense or shares with the school district an evaluation obtained at private expense, the results of the evaluation:
- (a) must be considered by the school district, if it meets the school district's criteria, in any decisions made with respect to the provision of a free appropriate public education for the student; and
  - (b) may be presented by any party as evidence at an impartial hearing for that student.

Please note that information related to reimbursement is provided as a guideline. Should parents require additional information, please contact the Executive Director of Pupil Personnel Services. The reasonable rates established are as follows:

<b><u>Evaluation Type</u></b>	<b><u>Reimbursed up to</u></b>
Psychological Evaluation	\$920.00
Educational Evaluation	\$920.00
Speech and Language Evaluation	\$925.00
Occupational Therapy	\$915.00
Physical Therapy Evaluation	\$930.00
Hearing Evaluation	\$935.00
Vision Evaluation	\$935.00
Audiological Evaluation	\$450.00
Psychiatric Evaluation	\$1200.00
Neuropsychological Evaluation	\$340.00/per hr./up to 10 hrs.

If the Committee determines that a student has a disability, an Individualized Education Program (IEP) is prepared which specifies the classification of the disability and includes:

- The student's present performance and individual needs in the following areas: academic or educational achievement and learning characteristics, social development, physical development and management needs including how the disability affects student involvement and progress in the general curriculum.
- Measurable annual goals, including benchmarks or short-term objectives (when appropriate), related to enabling the student to be involved in and progress in the

general curriculum and meeting each of the student's other educational needs that result from the student's disability.

- 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 needed for the student to advance appropriately toward attaining annual goals, to be involved and progress in the general curriculum, and to be educated and participate in activities with other students with and without disabilities.
- The extent, if any, to which the student will not participate with non-disabled students in the general education class and in other activities.
- Any individual accommodations in the administration of State or district-wide assessments of student achievement that are needed in order for the student to participate.
- If the Committee determines that the student will not participate in a particular district-wide assessment or part of such assessment, a statement of why the assessment is not appropriate and how the student will be assessed.
- With regard to state-wide assessments, the Committee may determine that a student with a severe disability (limited cognitive ability combined with behavioral and/or physical limitations) can participate in an alternate assessment in order to demonstrate mastery of skills and attainment of knowledge relative to New York State learning standards.
- The projected date for the beginning of the services and modifications and the frequency, location and duration of those services and modifications; how the student's progress toward the annual goals will be measured, how the student's parents will be regularly informed of their student's progress towards annual goals and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

***(a) The IEP must also include:***

- beginning at age 15, and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's course of study (such as participation in advanced placement courses or a vocational education program); and
- beginning at age 15, or younger if determined appropriate by the Committee, a statement of needed transition services for the student, including, when appropriate, a statement of the interagency responsibilities or any needed linkages.

***(b) Consideration of Special Factors:***

- Where behavior impedes a student's learning or that of others, the CSE will consider, when appropriate, strategies, including positive behavioral interventions, and supports to address that behavior;
- limited English proficiency – language needs as it relates to the IEP;
- blind or visually impaired – must provide instruction in Braille unless the Committee determines this is not appropriate;

- deaf or hard of hearing – consider the language and communication needs and opportunities for direct communication with peers and professional personnel in the student’s language and communication mode;
- for all students, the provision of assistive technology, if appropriate.

### **C. Placement**

If the Board of Education *agrees* with the Committee’s recommendation, the parents will be notified of the decision. Placement of the student in the appropriate special education program or provision of appropriate services will take place within 60 school days of receipt of consent to evaluate a student not previously identified as having a disability or 60 school days of referral for review. If the recommendation is for placement in an approved in-state or out-of-state private school, programs and services shall be provided within 30 school days of the Board of Education receipt of the CSE recommendation. Initial placements require the written consent of the student’s parent/guardian. The Board of Education ensures that each regular education teacher, special education teacher, related services provider and other service providers responsible for implementing the IEP has access to a copy of the IEP. In addition, the CSE chairperson will designate a professional with knowledge of the student’s disabilities and program to inform each teacher, assistant and support staff person of their responsibilities related to implementation of the IEP, as well as the modifications and supports provided under the IEP. Further, all copies of the student’s IEP will remain confidential and are not redisclosed to any other person, in compliance with the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA).

If the Board of Education *disagrees* with the Committee’s recommendation, it must provide a written description of its reasons and may remand the recommendation to the Committee for further review.

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

1. An annual review is conducted for every student who has been classified as having a disability and attends school within the boundaries of Three Village Central School District. Parents are notified by mail and/or email of the meeting and reasonable measures will be taken to ensure that the parent attends the meeting. The review is conducted to determine the student’s strengths, present levels of performance, academic, developmental, and functional needs, continued eligibility and need for special education services and whether any modification or additions to the special education program and related services are needed to enable the student to meet the measurable annual goals of the IEP and to participate, as appropriate, in general education. A new IEP is prepared at the meeting.
2. A comprehensive reevaluation is conducted at least every three (3) years by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of the student’s disability. The reevaluation shall be sufficient to determine the student’s individual needs, educational progress and achievement, the student’s ability to participate in instructional programs in general

education and the student's continuing eligibility for special education. As part of any reevaluation, a review of existing data, including evaluations and information provided by the student's parents, current classroom-based assessments and observations, teacher and related service providers' observations, is conducted to determine what additional data, if any, are needed to determine if the student continues to be a student with a disability, and whether any addition or modification to the special education services are needed to enable the student to meet the annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum. If no additional data is needed, the parents are notified of that determination and the reasons for it. They are also notified of their right to request an assessment to determine whether the student continues to be a student with a disability. The district is not required to conduct the assessment unless requested to do so by the student's parents.

If additional data are considered necessary to determine whether the student continues to be a student with a disability, parental permission is obtained prior to conducting the reevaluation. The reevaluation shall be sufficient to determine the student's individual needs, educational progress and achievement. In addition, the reevaluation should assist the Committee on Special Education in determining the student's ability to participate in instructional programs in general education, the student's continued eligibility for special education and in assessing the appropriateness of the student's classification, program and placement. Reevaluations may also be initiated prior to the three year requirement if requested by the parent or professional staff.

3. Before determining that a student is no longer eligible to receive special education services, an evaluation must be conducted. When the CSE determines that a student no longer needs special education services, the Committee may recommend declassification support services for no more than one year. In addition, where appropriate, testing accommodations may continue.

#### **IV CONTINUUM OF SERVICES**

##### **A. Instruction and Supplementary Services in the General Education Setting**

Students with disabilities will be provided special education in the least restrictive environment. To enable students with disabilities to be educated with non-disabled peers and to the maximum extent appropriate, specially designed instruction and supplementary services may be provided in the general education classroom. Such services may include, but are not limited to, consultant teacher services and other group or individual supplemental or direct special education instruction.

##### **B. Transitional Support Services**

When specified in a student's Individualized Education Program, transitional support services are provided to a general education or special education teacher on a temporary basis to aid in the provision of an appropriate educational program to the student with a disability who is transferring to a general education program or to a less restrictive program or service. These services do not continue beyond one year. These services may be provided by the building psychologist, a special education teacher, a speech/language

therapist, physical therapist, occupational therapist or other appropriate professional who understands the specific needs of the student with a disability.

**C. Consultant Teacher Services**

Consultant teacher services will be for the purpose of providing direct and/or indirect services to students with disabilities enrolled full-time in general education classes. Such services shall be recommended by the Committee on Special Education to meet the specific needs of students and shall be included in the student's Individualized Education Plan (IEP). Consultant teacher services shall be provided in accordance with the following provisions:

1. **Direct consultant teacher** services means specially designed individualized or group instruction provided by a certified special education teacher to a student with a disability to aid such student to benefit from the student's regular education classes.
2. **Indirect consultant teacher services** means consultation provided by a certified special education teacher to regular education teachers to assist them in adjusting the learning environment and/or modifying their instructional methods to meet the individual needs of a student with a disability who attends their classes.
3. Each student with a disability requiring consultant teacher services shall receive direct and/or indirect services consistent with the student's IEP for a minimum of two hours each week.
4. The total number of students with disabilities assigned to a consultant teacher shall not exceed 20.

**D. Related Services**

Related services are defined as speech pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling, orientation and mobility services, medical services as defined by regulations, parent counseling and training, school health services, school social work, other appropriate developmental or corrective support services, appropriate access to recreation and other appropriate support services. When a related service is provided to more than one student at the same time, the number of students in the group will not exceed five. Students may be provided with more than one related service, based on the student's needs.

**E. Resource Room**

The resource room program is for the purpose of supplementing the general or special classroom instruction of students with disabilities who are in need of such supplemental programs.

1. The instructional group in each resource room period may not exceed five students and is instructed by a special education teacher or certified reading teacher, where appropriate.
2. Students shall spend a minimum of three (3) hours per week and not more than fifty percent (50%) of the day in the resource room program.
3. The total number of students assigned to a resource room teacher will not exceed 20 at the elementary level and 25 at the middle and high school levels.



**F. Special Class**

A special class is defined as a class consisting of students with the same disabilities or with differing disabilities who have been grouped together because of similar individual needs for the purpose of being provided a special education program. The chronological age range of students who are less than 16 years of age will not exceed 36 months.

**G. Out-of-District Placement**

Students with disabilities whose needs are too intensive to be addressed appropriately in an in-district special education program may be placed in one of the following, listed from least restrictive to more restrictive:

- special class operated by another school district,
- a BOCES program,
- an approved private school (day),
- 4201 or state operated school, or
- an approved residential placement.

**H. Home and Hospital Instruction**

Students with disabilities who are recommended for home and/or hospital instruction by the CSE shall receive instruction as follows:

- Instruction for elementary school students will be provided a minimum of five hours per week.
- Secondary school students will receive a minimum of ten hours of instruction per week, preferably two hours daily.
- Students who are awaiting placement may be assigned, on an interim basis and with their parent's consent, to alternate site instruction. This instruction is identical to home teaching except that the actual instruction takes place outside the home.

**I. Declassification Support Services**

Students exiting special education may be considered for declassification services. Declassification support services are defined in the Part 100 Regulations. Testing accommodations may be continued as recommended by the CSE.

If a student has been receiving special education services but the Committee on Special Education determines that the student no longer requires such services and can be placed in a general education program on a full-time basis, the recommendation shall:

- identify the declassification support services; and
- indicate the projected date of initiation, frequency and duration of such service, not to be continued for more than one year.

\*\*\*\*\*

**ADDITIONAL EVALUATION,  
IEP AND PLACEMENT  
CONSIDERATIONS**

## **I        ADDITIONAL PROCEDURES FOR IDENTIFYING STUDENTS WITH LEARNING DISABILITIES**

A student suspected of having a learning disability must receive an individual evaluation that includes a variety of assessment tools and strategies. The CSE may not rely on any single procedure as the sole criterion for determining whether a student has a learning disability. The individual evaluation shall be completed within 60 calendar days of receipt of consent, unless extended by mutual written agreement of the student's parent and the CSE.

The individual evaluation must include information from an observation of the student in routine classroom instruction and monitoring of the student's performance that was either done before the student was referred for an evaluation or from an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and parental consent is obtained.

To ensure that underachievement in a student suspected of having a learning disability is not due to lack of appropriate instruction in reading or mathematics, the CSE must, as part of the evaluation process, consider:

- Data that demonstrates that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings delivered by qualified personnel.
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the student's parents.

The determination of eligibility for special education for a student suspected of having a learning disability must be made by the CSE, which shall include the student's general education teacher and at least one person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, special education teacher, speech/language pathologist or reading teacher.

A student may be determined to have a learning disability if, when provided with learning experiences and instruction appropriate for the student's age or state approved grade-level standards, the student does not achieve adequately for the student's age or meet state approved grade level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematics calculation, and/or mathematics problems solving; and the student either:

- does not make sufficient progress to meet age or State approved grade level standards in one or more of the identified areas when using a process based on the student's scientific, research-based intervention pursuant to section 100.2 (ii) of the Commissioner's Regulations;
- exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards or intellectual development that is

determined by the CSE to be relevant to the identification of a learning disability, using appropriate assessments;

- The CSE determines that its findings under this paragraph are not primarily the result of a visual, hearing, or motor disability; intellectual disability, emotional disturbance, cultural factors; environmental or economic disadvantage, or limited English proficiency.

In addition to the above criteria, the CSE is not prohibited from considering whether there is a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematical calculation and/or mathematical problem solving, provided that a school district shall not use the severe discrepancy criteria to determine that a student in kindergarten through grade four has a learning disability in the area of reading.

### **Specific Documentation for the Eligibility Determination**

When determining eligibility for a student suspected of having a learning disability, the CSE shall prepare a written report containing a statement of:

- Whether the student has a learning disability.
- The basis for making the determination, including an assurance that the determination has been made in accordance with regulations.
- The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning.
- The educationally relevant medical findings, if any.
- Whether the student:
  - does not achieve adequately for the student's age or to meet state approved grade level standards; and
  - does not make sufficient progress to meet age or state approved grade level standards; or
  - exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state approved grade level standards of intellectual development.
- The determination of the CSE concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance, cultural factors; environmental or economic disadvantage, or limited English proficiency on the student's achievement level; and,
- if the student has participated in a process that assesses the student's response to scientific, research-based intervention:
  - the instructional strategies used and the student-centered data collected; and
  - the documentation that the student's parents were notified.
- Each CSE member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the CSE member must submit a separate statement presenting the member's conclusions.

## **II DECLASSIFICATION OF STUDENTS WITH DISABILITIES**

The recommendation to declassify students with disabilities is the responsibility of the Committee on Preschool Special Education (CPSE) and the Committee on Special Education (CSE). As declassification constitutes a significant change of identification and placement, the CPSE/CSE shall reevaluate/reassess the student prior to making this recommendation. The CPSE/CSE shall also provide prior notice, in the native language or other mode of communication of the home, to the student's parent or guardian, that a reevaluation/reassessment is being sought and request written consent for this evaluation. If the initial request for consent is unsuccessful, alternate measures will be taken to obtain consent and will be documented. If reasonable attempts have been made to obtain consent and have been documented, but no response is received from the parent or guardian, the CPSE/CSE shall reevaluate/reassess the student without consent.

The CPSE/CSE will consider the student's ability to participate in instructional programs in general education, the student's benefit from special education, and the student's continued eligibility to be identified as the student with a disability according to the criteria set forth in IDEA, the Part 200 Commissioner's Regulations and the District's existing policies and procedures. The CPSE/CSE must also consider the provision of education and support services to the student upon declassification. Upon declassification, the CPSE/CSE shall identify any declassification support services including the projected date of initiation of such services and the duration of these services. Declassification services shall be provided for no more than a year following the declassification date. Recommendations for declassification support services and appropriate evaluation information shall be forwarded to the building administrator who shall determine any academic intervention services or other services that may be appropriate for the student.

## **III. ARRANGEMENTS OF SPECIAL EDUCATION PLACEMENTS: CPSE and CSE**

The Board of Education shall, upon receipt of the IEP recommendations, arrange for programs and services to be provided to a student with a disability after consideration of the recommendation of the CSE or CPSE. The Board shall notify the parent that this has been arranged.

**For CSE**, evaluation and placement shall be completed within 60 school days of receipt of consent to evaluate a student not previously identified as having a disability or within 60 school days of referral for review of a student with a disability. For placement in approved in-state or out-of-state private school placements, the Board shall arrange for such programs and services within 30 school days of receipt of the recommendation of the Committee on Special Education.

**For CPSE**, the Board shall arrange for the services commencing with the July, September or January starting date, unless such services are recommended by the CPSE less than 30 school days prior to, or after, such appropriate starting date, in which case the services shall be provided no later than 30 school days from the recommendation of the Committee.

Because the placement of students is often a lengthy process, the Board authorizes the Superintendent of Schools, or designee, to act as its agent in making necessary arrangements to implement the program/services prior to the Board of Education meeting.

If the Board disagrees with the recommendation of the CSE/CPSE, it will set forth, in writing, a statement of its reasons and send the recommendation back to the Committee, with notice of the need to schedule a timely meeting to review the Board's concerns and to revise the IEP as deemed appropriate. The Board shall provide the parent with a copy of this statement and notice. The Committee shall then submit its revised recommendation to the Board of Education.

#### **IV. PROCEDURES FOR ASSESSING ENGLISH LANGUAGE LEARNERS (ELL) STUDENTS**

##### **A. Screening**

As part of the kindergarten screening, students who appear to be English Language Learners (ELL), formerly known as Limited English Proficient (LEP) students, are screened by the English as a Second Language (ESL) teacher. The ESL teacher also screens ELL new entrants to the district. One method that is used to determine the student's predominant language is the Home Language Questionnaire (HLQ). If the responses on the HLQ indicate that a language other than English is spoken at home, or that the student understands a language other than English, the ESL teacher administers the New York State Identification Test for English Language Learners (NYSITELL) to determine language proficiency.

State and Federal Laws and Regulations require that all LEPs/ELLs receive ELL services until they score proficient on the NYSESLAT.

Students who are referred for a bilingual assessment, have usually been in the ELL program for at least two to three years. Traditionally, the referral comes from the ESL teachers who discusses the possibility of a disability interfering with acquisition of academic and/or language skills with the building RTI/IST or guidance counselor and/or the school psychologist. Prior to referral, general education supports are attempted to determine if the student can make progress through these interventions.

These supports may include:

- ELL Program
- Academic Intervention Services
- ERRS Services
- Remedial Reading Support
- Speech/Language Services
- Regents Prep Program
- Extra help sessions with the general education teacher
- Informal small group instruction
- Curriculum modifications

If the student's home language is other than English, this is noted on the referral form in order that further evaluations can be completed in the student's native language. If the parents' dominant language is not English, they will receive all notifications in their

dominant language. They will also receive the Parent's Guide to Special Education in their native language, if available.

At the CSE meeting, an interpreter will be provided for parents if their native language is other than English. When considering if a disability is present, the CSE will consider the following factors:

- o The length of time the student has been in the United States
- o The amount of instruction that the student has received in the United States as well as his/her home country
- o The length of time the student has been receiving ESL instruction
- o Attendance in school
- o The student's proficiency in his native language as well as English proficiency
- o The types of general education supports that the student has received

In all cases, the student's educational, cultural and experiential background will be considered by the Committee to determine if these factors are contributing to the student's learning or behavioral problems. In making a determination of eligibility for special education and related services, a student may not be identified as a student with a disability if the determinant factor for such determination is limited English proficiency.

## **B. Culturally Unbiased/Non-Discriminatory Evaluation for ELL Students**

The CPSE/CSE is responsible for evaluating students to determine the existence of a disability that may require special education services. In order to safeguard educational opportunities for students whose native language is other than English, the CPSE/CSE must ensure that all tests and assessment procedures are administered so as not to be racially and culturally discriminatory.

**The procedures for ensuring appropriate and non-discriminatory evaluations for students who are ELL will be as follows:**

1. The CSE referral will indicate the students' native language, as determined by the Home Language Survey and other assessments.
2. The CSE referral includes a section that must be completed on students who are Limited English Proficient and may also be suspected of having a disability.
3. If the student's English proficiency is determined to be insufficient to obtain valid results in English and the home language is not English, the evaluation shall be bilingual. If the home language is English, but the student is considered limited English proficient, an evaluation will be conducted by a professional familiar with the culture and language dialect of the student.
4. If the student is from a culturally and linguistically diverse background and English is the home language and the student is considered to be proficient in English, as determined by an English Language Assessment, the evaluation may be conducted in English; however, the culture and linguistic background of the student will be taken into consideration.

5. If the parents' dominant language is not English, they will receive all notifications in their dominant language. They will also receive the Parent's Guide to Special Education in their native language, if available.

Upon receipt of a referral that indicates that the home language is not English, due process notice will be mailed to parents in the dominant language. At the CSE/CPSE meeting, an interpreter will be present to explain the results of the evaluations and the proposed recommendations.

**The bilingual evaluation will include the following considerations/evaluations:**

1. The length of time the student has been in the United States.
2. The amount of instruction that the student has received in the United States as well as his or her home country.
3. The length of time the student has been receiving ESL instruction.
4. Attendance in school.
5. The student's proficiency in his/her native language as well as English proficiency.
6. The types of general education supports that the student has received.
7. A bilingual evaluator will be obtained who is knowledgeable about the student's geographic area of origin as well as its language and culture.
8. BOCES and other agencies may be used for bilingual assessment.
9. Test instruments in the appropriate languages will be sought that norm on the same or similar population as the country from which the student has come. If such evaluative tools are not available, the evaluator will state in the report specific concerns regarding the instruments that were used and specific cautions observed when interpreting the results.
10. If specific sub-tests are not considered appropriate because of cultural disadvantage, the evaluator may prorate the results and explain the reasons for this decision in the report.
11. Student work samples may be submitted to the CSE to provide an informal portfolio assessment that may indicate functional levels.
12. Non-verbal assessment batteries will be used to supplement morpho linguistic based measures.
13. Age-appropriate adaptive behaviors will also be taken into consideration.
14. All areas of suspected disability will be evaluated in the student's native language (e.g. speech).
15. The bilingual evaluator will conduct a complete bilingual social history.
16. The evaluation report will state the language in which the assessment was administered.
17. If the tests normally used are not considered valid for the LEP student, other avenues of data collection including criterion referenced tests may be used and the results will be described in the evaluation report.



***The following procedures will be followed by the CSE/CPSE when reviewing bilingual evaluations:***

1. A bilingual professional or translator will be present at the CSE/CPSE meeting and the attendance sheet will indicate the name and language of this interpreter.
2. The CSE/CPSE will consider the role of cultural and/or linguistic factors in relation to the student's behavior and/or academic difficulties before determining if special education services are required.
3. In keeping with the mandate of Least Restrictive Environment, the CSE/CPSE will determine if remedial services and other general education supports can be tried before considering special education services.
4. All notices requiring consent and informing parents of CSE/CPSE recommendations will be translated into the parent's dominant language.
5. The program or services recommended for the student may consist of a combination of ESL and special education services, as recommended by the CSE/CPSE.

## **V. EXTENDED SCHOOL YEAR (CSE/CPSE)**

- A.** The Committee on Special Education or Committee on Preschool Special Education will determine whether a student requires a structured learning environment of up to 12 months to prevent substantial regression. *Substantial regression*, as defined by Regulations, occurs as a result of a student's inability to maintain developmental levels due to a loss of skill or knowledge during the months of July and August. Regression must be of such severity as to require an inordinate period of review at the beginning of the school year to reestablish and maintain IEP goals and objectives mastered at the end of the previous school year. A special program or service shall operate for at least 30 days during the months of July and August. In accordance with Section 200.6(j) and 200.16(h) of the Commissioner's Regulations, students will be considered for twelve-month special services and/or programs to prevent substantial regression if they are:

1. students/preschool students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention and who are placed in special classes;
2. students/preschool students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment;
3. students who are recommended for home and hospital instruction or students/preschool students whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment;
4. students/preschool students whose needs are so severe that they can be met only in a seven-day residential program; or
5. students/preschool students receiving other special education services who, because of their disabilities, exhibit the need for a twelve-month special service and/or

program provided in a structured learning environment in order to prevent substantial regression.

- B. Both quantitative and qualitative information will be reviewed by the Committee to substantiate the need for providing such services and programs. A student is eligible for a twelve-month service or program when the period of review or re-teaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or re-teaching ranges between 20 and 40 school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight weeks or more would indicate that substantial regression has occurred.

## VI. ASSISTIVE TECHNOLOGY DEVICES AND SERVICES

The school district is committed to ensuring that assistive technology devices and/or services are made available to a student with a disability, when appropriate, as part of the student's IEP.

- A. The IEP must describe any specialized equipment and adaptive devices needed for the student to benefit from instruction. IDEA requires each school district to ensure that assistive technology devices and/or services are made available to a preschool or school-age student with a disability as part of the student's special education, related services or supplementary aids or services as described in the IEP. IDEA defines assistive technology devices and assistive technology services, as follows:
1. *Assistive technology devices* means any item, piece of equipment or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain or improve the functional capabilities of a student with a disability (*does not include a medical device that may have been surgically implanted or its replacement*).
  2. *Assistive technology services* means any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device. The term includes:
    - a. the evaluation of the needs of a student with a disability, including a functional evaluation of the student in the student's customary environment;
    - b. purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by students with disabilities;
    - c. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
    - d. coordinating and using other therapies, interventions or services with assistive technology devices such as those associated with existing education rehabilitation plans and programs;
    - e. training or technical assistance for a student with a disability or, if appropriate, that student's family; and
    - f. training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers or other

individuals who provide services to employ, or are otherwise substantially involved in the major life functions of that student.

- B.** A student's need for assistive technology is determined through individual evaluation. The district's CSE/CPSE is responsible for this evaluation. The need to conduct an assistive technology evaluation must be considered on a case-by-case basis.

## **VII. EXEMPTION FROM LANGUAGE OTHER THAN ENGLISH REQUIREMENTS**

### **A. Language Other Than English Requirements**

Students are required to complete one (1) hour credit in a language other than English in order to earn a Regents diploma Section 100.2(d).

### **B. IEP Exemption**

Students identified as having disabilities may be exempted from the language other than English requirement. However, only those students whose disabilities specifically and severely impair receptive and/or expressive language skills, or students that exhibit other behavioral or learning problems that would impact the ability to benefit from foreign language instruction may be exempt from the foreign language requirements. The exemption and reason for the exemption will be specified in the IEP.

At annual review for all students who are entering seventh grade and beyond, the CSE will take the following steps:

1. Curriculum will be reviewed to determine whether the language requirement has been completed.
2. If the language requirement has not been completed, the Committee will consider speech and language levels, learning characteristics and emotional factors which may be relevant to ability to benefit from language instruction in the following year.
3. An exemption may be granted if a student is severely speech and language impaired or if other factors justify such exemption. If the CSE concludes that exemption is warranted, reasons will be provided in the IEP.

The school district and State Education Department policies strongly favor fulfillment of the language requirement by all students prior to completion of ninth grade. Therefore, only students whose receptive or expressive language is severely impaired will be exempted unless there are specific factors which, in combination with language problems, make exemption necessary.

## **VIII. GUIDELINES FOR PARTICIPATION OF STUDENTS WITH DISABILITIES IN STATE AND DISTRICTWIDE ASSESSMENTS**

The Board of Education believes that students with disabilities should have access to all testing accommodations necessary to participate in state and districtwide assessments in order to ensure that the student's academic achievement and functional performance is fairly and accurately measured.

Test accommodations are changes made in the administration of a test, including testing procedures or formats, in order to remove obstacles to the test-taking process caused by a student's disability, that do not alter the measurement of a construct. The District recognizes that the provision of testing accommodations to the students with disabilities enables such students to participate in assessment programs on an equal basis with their non-disabled peers. Testing accommodations provide students with disabilities the opportunity to demonstrate mastery of skill and attainment of knowledge without being limited or unfairly restricted by their disability. Further, testing accommodations provide opportunity for students with disabilities to gain access to more challenging courses and programs.

Therefore, the Board adopts the following guidelines to ensure that all state and district-wide assessments are administered using appropriate accommodations:

- Test accommodations must be provided on a consistent and uniform basis as provided by each student's IEP and should not be excessive, nor alter the standard administration of the test to the least extent possible.
- Test accommodations are neither intended nor permitted to:
  - alter the construct of the test being measured or invalidate the results;
  - provide an unfair advantage for students with disabilities over students taking tests under standardized conditions; or
  - substitute for knowledge or abilities the student has not attained.
- The following students are eligible to receive test accommodations:
  - students classified by the CSE or CPSE as having a disability;
  - students identified as having a disability pursuant to Section 504 of the Rehabilitation Act by a 504 multidisciplinary team;
  - students who incur disabilities for thirty (30) days or less before administration of a districtwide test and who are authorized by the principal to receive test accommodations; and,
  - students previously declassified by the CSE or CPSE who are provided with declassification accommodations.
- The following individuals are authorized to make the decisions regarding test accommodations for a student with a disability.
  - the CSE or CPSE, if the student is classified under IDEA and the Commissioner's Regulations or if the student has been declassified;
  - the Section 504 Multidisciplinary Team for those students identified as having a disability pursuant to Section 504 of the Rehabilitation Act;

- the school principal, for general education students who have incurred a short or long-term disability within thirty (30) days before administration of assessments and where sufficient time is not available for the development of an IEP or 504 Plan.
- All appropriate testing accommodations will be designated in a student's IEP or 504 Accommodations Plan and will be reviewed at least annually by the CSE or CPSE or 504 multidisciplinary team; except for declassification accommodations. In some cases of 504 Accommodation Plan parents are offered the opportunity to forgo a formal review meeting.
- Steps shall be taken to ensure that teachers and service providers are aware of test accommodations for students and how they are to be implemented.

## IX. TRANSITION PLANNING

### A. Definition

*Transition Services* are defined in the IDEA and Article 89 as a coordinated set of activities for a student with a disability, designed with a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities including, but not limited to, post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student's strengths, preferences and interests, and shall include needed activities in the following areas: 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 provision of functional vocational evaluation. (20 U.S.C. 1401 (a)(19)).

### B. Individualized Transition Plan

*Transition Services planning* for secondary students with disabilities is outcome oriented and looks toward adult life. Professionals, students and parents or other guardians work cooperatively to identify appropriate destination statements and to determine and implement plans for reaching these outcomes. The student's interests and needs are kept foremost in the decision making process.

**For students age 14 and older,** the IEP must demonstrate the use of annual goals and a coordinated set of activities as the means by which the student can achieve long term adult outcomes. Beginning at age 14, the focus is on instruction. At age 15, and older, the coordinated set of activities must address instruction, related services, community experiences and the development of employment or other post-school adult living objectives. Activities of daily living and functional vocational evaluation activities should also be included when appropriate to the student's needs. At all meetings for the purpose of discussing the need for transition services, the student will be invited. In addition, a representative of the agencies likely to provide or pay for transition services will be

invited. Other knowledgeable school personnel (e.g., administrators, psychologists, related service providers, general education teachers) may be asked to participate in the process.

**C. The Transition Services IEP contains the following elements:**

1. individualized long-term adult outcome statement for education, employment and community living;
2. coordinated set of activities in the areas of instruction, employment/post-secondary activities, community experience and, if appropriate, activities of daily living, functional vocational evaluation;
3. designation of responsibility for implementation;
4. measurable annual goals related to the student's transition service needs;
5. under the student's present levels of performance, the IEP includes 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.

**X. VOCATIONAL ASSESSMENTS**

**A. Goal of the Vocational Assessment Process**

The goal of the vocational assessment process is the successful transition of students to post-secondary education or employment. The process serves to help students, parents and staff focus on long-term planning leading to realistic outcomes. The ultimate goal is for the school, family and community agencies to work cooperatively to identify appropriate destination statements and to determine and implement plans for reaching these outcomes.

Vocational assessment is an ongoing process involving the systematic collection of information about a student's vocational aptitudes, abilities, expressed interests and occupational awareness. Based on the age, abilities, interests and needs of each student, an appropriate vocational assessment may include the following:

1. review of existing school information,
2. the completion of informal interviews,
3. parent questionnaires,
4. one or more formal vocational evaluations,
5. job and student performance analysis made in real and/or simulated work settings.

Though the amount and type of information collected on each student may vary, it must be sufficient for the Committee on Special Education to make and substantiate appropriate occupational education program decisions.

**B. Levels of Vocational Assessment**

Vocational assessment is conducted for special education students starting at age 12 and those referred to special education for the first time who are age 12 or older.

1. The Level I vocational assessment includes a structured collection of information and analysis of existing information about the student. This assessment involves the participation of the student, the student's parent(s) or guardian(s), a special

education teacher and the student's guidance counselor. Other appropriate professionals may also participate in this assessment.

When a vocational/career assessment raises issues that need clarification or does not provide adequate information for decision-making, additional assessments may be recommended by the CSE. The additional assessments are not necessarily given in hierarchical order and a student can be recommended for a more formalized testing from a specialist in vocational assessment and/or situational work assignment.

Level II vocational assessments are more focused and involve administration of standardized tests which look in further detail at interests, vocational skills and specific aptitudes and abilities. It builds upon information that was recorded in the Level I assessment. Specialized vocational evaluation instruments, such as a vocational interest inventory, vocational aptitude battery and selected work samples, may be introduced at this level.

2. The Level III vocational assessment is a situational assessment conducted while a student is actually engaged in real or simulated work related or vocational activities. This may require resources such as those available in a vocational rehabilitation facility, an occupational assessment center or in an actual work setting.

In all cases, the assessments keep the student's unique interests, needs and desires in the forefront during the evaluation and decision making process.

## **XI. AGING OUT GUIDELINES FOR STUDENTS WITH SEVERE DISABILITIES**

Students with disabilities are no longer eligible for a free appropriate public education once they reach the age of 21 or attain a high school diploma. The district has a mandated responsibility to implement an aging-out process to transition students with severe disabilities from public education to adult services. Aging-out procedures are in addition to the transition planning services previously discussed in this plan.

- A. Aging-out is specifically designed to meet the needs of three groups of students with severe disabilities:
  1. **Chapter 544 Students:** Students attending residential out-of-state schools who have attained or will attain the age of 18 prior to June 30 of the current school year.
  2. **Chapter 570 Students:** Students attending residential in-state schools who have attained or will attain the age of 18 prior to June 30 of the current school year.
  3. **Chapter 462 Students:** Students attending non-residential, in-state programs 100% of the time, who have intensive management needs and who are likely to require adult services. The process for eligible students begins at the first annual review after the student reaches the age of 15.
- B. Although the procedures for referral of students in these three groups are not identical, there are certain common overriding steps:

1. identification of students likely to need adult service based on criteria noted above
2. notification to parents or students,
3. obtaining consent to release information,
4. referral to agency (*agencies*),
5. submission of reports to the State Education Department.

## **XII. OPPORTUNITIES TO EARN HIGH SCHOOL DIPLOMAS**

It is the policy of the school district to encourage students with special education needs to pursue high school diplomas. Access must be provided to required courses, electives and tests as specified in Part 100 of the Regulations of the Commissioner. The Committee must consider the high school credits the student will seek to attain a high school diploma or appropriate credential. To ensure that students with disabilities are encouraged and assisted to achieve the credits and the skill levels necessary for attaining a diploma or credential, the district adopts the following procedures:

1. The CSE will annually review the special educational needs of each student with a disability. At each annual review after the student has entered the middle school, the CSE will make an assessment as to whether or not the student's capacities indicate probable success in a course of study leading to a diploma, or whether his or her needs could be better met in an individualized education plan designed to culminate in Skills and Achievement Credential. Where appropriate, the student will participate in this decision making process.
2. The decision will be reviewed annually. The CSE will consider the following factors:
  - a. current levels of achievement,
  - b. learning rate,
  - c. preference of student and family.
3. The CSE will consider whether the student's disability is such that s/he is entitled to testing accommodations, which will be specified on the IEP.
4. The district will offer appropriate remedial instruction for all students.
5. The CSE will identify and recommend support services and supplementary instruction necessary to assist students to benefit from credit courses.
6. If the student's special educational needs require instruction in small classes from certified special education teachers, the IEP shall so indicate and placement will be made in or outside the district in special classes. In any case, instruction in subjects granting credit toward graduation will be provided in accordance with the special education teacher in consultation with a teacher certified in the subject being taught. A record of the objectives and criteria for mastery will be subject to approval by the building principal and maintained in the special education office. Evaluation of student work will be completed in accordance with the individual educational needs of the student.
7. Prior receipt of a Skills and Achievement Commencement Credential does not preclude subsequent granting of a Local or Regent's diploma, if appropriate assessments and necessary credits are achieved before the end of the school year in which a student reaches his/her twenty-first (21) birthday. In all cases in which an appropriate credential is issued, parents will receive written notice that a student is



entitled to receive a free, appropriate public education until the end of the school year in which he/she reaches his/her twenty-first (21) birthday or obtains a high school diploma.

### **XIII GUIDELINES FOR ISSUANCE OF A SKILLS AND ACHIEVEMENT COMMENCEMENT CREDENTIAL**

The Board of Education and District staff shall comply with all federal and state requirements concerning the education of children with disabilities.

The District subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. In accordance with this, it is expected that students with disabilities will be guided toward a course of study which will lead to the achievement of a high school diploma. It is recognized, however, that the achievement of this standard may be precluded from some students due to the nature or severity of their disability. The awarding of a Skills and Achievement Commencement Credential is authorized for such students under the following conditions:

- Only students with disabilities who have been instructed and assessed on the alternate performance level for the State learning standards are eligible for this credential award.
  - The credential may be awarded any time after such student has attended school for at least 12 years, excluding kindergarten or received a substantially equivalent education elsewhere; or at the end of the school year in which a student attains the age of 21.
  - The credential would not be considered a regular high school diploma in accordance with State standards or for federal accountability purposes.
  - The credential must be similar in form to the diploma issued by the school district or nonpublic school, except that there shall appear on the credential a clear annotation to indicate the credential is based on achievement of alternate academic achievement standards.
  - The credential must be issued together with a summary of the student's academic achievement and functional performance and must include documentation of the student's:
    - achievement against the Career Development and Occupational Studies (CDOS) learning standards <http://www.p12.nysed.gov/cte/cdlearn/>;
    - level of academic achievement and independence as measured by NYSAA;
    - skills, strengths, interests; and
    - as appropriate, other achievements and accomplishments.
6. For students less than 21 years old, the credential must be provided with a written assurance that the student continues to be eligible to attend the public schools of the school district in which the student resides without payment of tuition until the student has earned a regular high school diploma or until the end of the school year in which the student turns age 21, whichever occurs first.

## **Skills and Achievement Exit Summary**

The Skills and Achievement Exit Summary includes those competencies/skills identified as important for post-secondary living, learning and working. This Exit Summary must include specific documentation of the student's:

1. level of achievement and independence for each of the CDOS standards, including, but not limited to:
  - career development;
  - integrated learning; and
  - universal foundation skills including:
    - basic skill in reading, writing, listening, speaking, math and functional math;
    - thinking skills;
    - personal qualities;
    - interpersonal skills;
    - use of technology;
    - managing information and resources; and
    - systems skills.
2. academic skills, as measured by the State assessment for students with severe disabilities (i.e., NYSAA); and
3. strengths and interests and, as appropriate, other student achievements and accomplishments.
4. recommendations to assist the student to meet post-secondary goals, requires documentation of the student's goals for postsecondary education/training, employment and independent living (if appropriate) and recommendations to assist the student in meeting those goals.

## **XIV GUIDELINES FOR ISSUANCE OF A CAREER DEVELOPMENT AND OCCUPATIONAL STUDIES CREDENTIAL**

The district subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. In accordance with this, it is expected that students with disabilities will be guided toward a course of study which will lead to the achievement of a high school diploma. It is recognized that the achievement of this standard may be precluded for some students due to the nature or severity of their disability. The awarding of a Career Development and Occupational Studies Commencement Credential can be in addition to a high school diploma or for students who are unable to earn a local or regents diploma because of their disability may graduate with this existing credential provided they meet the requirements for award of the credential and have attended school for at least twelve (12) years, excluding kindergarten. The NYS CDOS Commencement Credential is authorized for such students under the following conditions:

- The student may have developed a Career Plan that includes documentation of the student's self-identified career interests; career-related strengths and needs, career goals; and career and technical coursework and work based learning experiences that the student plans to engage in to achieve those goals.
- The student must have demonstrated achievement of the commencement level CDOS learning standards in the area of career exploration and development; integrated learning; and universal foundation skills.
- In grades 9-12, satisfactorily complete the equivalent of two (2) units of study in Career and Technical coursework and/or work-based learning (216 hours), provided the equivalent units of study shall include a minimum of fifty-four (54) hours of documented school supervised work-based learning experiences related to career awareness, exploration and/or preparation; and
- Within one year prior to a student's exit from high school, at least one (1) employability profile must be completed for the student.

Notwithstanding the foregoing, for students with disabilities who exit from high school prior to July 1, 2015, the District may award the Career Development and Occupational Studies Commencement Credential to a student who has not met all of the above requirements if the District, including the principal and relevant personnel, has determined that the student has otherwise demonstrated knowledge and skills related to the commencement level career development occupational studies learning standards.

For students with disabilities who transfer from another school district, the principal shall, after consultation with relevant faculty, evaluate the work-based learning experiences and coursework on the student's transcript or other record to determine whether the student meets the requirements for such Credential.

This Credential shall be issued at the same time the student receives his/her Regents or local high school diploma, except that for a student whose disability prevents him or her from earning a Regents or high school diploma, any time after such student has attended at least twelve (12) years of school, excluding Kindergarten, has received a substantially equivalent education elsewhere or at the end of the school year in which a student attains the age of twenty-one (21).

\*\*\*\*\*

## APPEALS, SAFETY NETS, AND SUPERINTENDENT DETERMINATION

### Appeals

All New York State students are eligible to appeal a lower score on a Regents examination if they meet the following criteria:

- have taken the Regents examination under appeal at least two times;
- have at least one score on the Regents examination under appeal within the point range appropriate for the appeal:

All student appeal	60-64
English language learners seeking appeals in ELA only *	55-59
Students with disabilities eligible for the low-pass safety net	52-54

- have taken advantage of academic help provided by the school in the subject tested by the Regents examination under appeal;
- have passed the course for which the appeal is being sought; and
- have been recommended for an exemption to the graduation requirement by the student's teacher or Department chairperson in the subject of the Regents examination under appeal.

\* Note: In order to be eligible for the Local Diploma via Appeal for English Language Learners, the student must have entered the United States in high school (grade 9 or after) and must still be identified as an English Language Learner during the 2nd attempt at passing the English Regents exam.

Appeal resources include:

- [Appeal to Graduate with a Lower Score on a Regents Exam](#), March 2018
  - includes information, appeal form (maintained by school), and summary form (returned to SED)
- Appeal to Graduate with a Lower Score on a Regents Exam: [Frequently Asked Questions](#), April 2016
- [Field Memo: Appeal to Graduate with a Lower Score on a Regents Exam](#), April 2017
- [Field Memo: Changes to the Commissioner's Regulations Part 100.5\(d\)\(7\) Governing the Appeal to Graduate with a Lower Score on a Regents Examination](#), April 2016

## Safety Net Options

Students with disabilities have three Safety Net Options available to support acquisition of the local diploma.

- Low Pass Safety Net
  - Under this safety net, a score of 55-64 constitutes a passing score on a required Regents exam.
- Low Pass Safety Net with Appeal
  - Under this option, students with disabilities may appeal up to two Regents exam scores of 52-54.
- Compensatory Safety Net
  - This option enables students to compensate for a Regents exam score of 65 or above for a Regents exam score between 45 and 54. Each high score may compensate for a low score. This option only applies to lower scores on Regents exams in social studies and science. Students must earn at least a 55 (or be granted an appeal in the range of 52-54) on their English language arts and mathematics Regents exams.

Example:

Required Regents Exam or Pathway	Score
English Language Arts	60
Algebra I	55
Living Environment	70
US History	46
CDOS Commencement Credential	earned

Rationale: This student can use the compensatory safety net option. The student earned scores of 55 or above on both English Language Arts and Algebra I (mathematics) Regents exams. The student's score of 70 in Living Environment compensates for the lower score of 46 in US History.

## **Superintendent Determination**

Students with a disability who are unable to attain a local diploma through the various safety net provisions may be eligible for a Superintendent Determination of a local diploma.

Superintendent Determination resources include:

- [Superintendent Determination Option for Graduation with a Local Diploma](#), updated August 2018
- [Superintendent Determination Option for Graduation with a Local Diploma: Question and Answers](#), updated August 2018
- Form (to be returned to NYSED): [Superintendent Determination for Graduation with a Local Diploma](#), updated January 2018
- Sample Form: [Parent Request for Superintendent Determination for Graduation with a Local Diploma](#)

For further questions and comments, email: [emscurric@nysed.gov](mailto:emscurric@nysed.gov) (general questions) or [emscgradreq@nysed.gov](mailto:emscgradreq@nysed.gov) (questions related to graduation requirements) or call (518) 474-5922.

**New York State Education Department**  
**PROCEDURAL SAFEGUARDS NOTICE**  
**July 2017**

## **I. INFORMED CONSENT**

### **A. Consent means:**

- The parent has been fully informed, in his or her dominant language or other mode of communication of all information relevant to the activity for which consent is sought, and has been notified of the records of the student which will be released and to whom they will be released;
- The parent agrees in writing to the activity for which consent is sought; and
- The parent is made aware that the consent is voluntary and may be reconsidered at any time.

### **B. Written parental consent is required prior to:**

1. **Initial Evaluation** – Upon receipt of a referral to the CSE/CPSE of a student who is suspected of having a disability, parental consent for evaluation is requested. The parents are contacted by a representative of the CSE/CPSE. The reason for the referral and the evaluation process are explained. The notice will include a description of the evaluation procedures. The parents are also provided with a copy of their due process rights, information describing the components of a comprehensive evaluation and *A Parent's Guide to Special Education*. Translations are provided to the parents, as needed. If the parents do not consent, the parents are invited to a conference to discuss the evaluation process. Outreach efforts will be made, when necessary, to ensure the parents have received and understand the request for consent.
2. **Initial Placement** – If the CSE/CPSE determines the student has a disability and recommends special education services, parental consent to initial placement is requested and the parents are provided with a copy of their due process rights. Translations are provided, as necessary. Parents are given the opportunity for further discussion with the Chairperson of the CSE/CPSE or school staff, if needed. Outreach efforts are made, when necessary, to ensure the parents have received and understand the request for consent for placement.
3. **Initial Provision** of an Extended School Year (12 month) Program or Services – the procedures detailed above apply.
4. **Reevaluation** – Parental consent will be requested prior to conducting a reevaluation of the student; however, the district may proceed with the reevaluation if the parents/guardian do not respond and reasonable measures have been taken to obtain their consent. Reasonable measures are interpreted as:
  - a written notice is sent to the parent requesting their consent for the reevaluation;
  - at least one additional attempt is made to notify the parents, this may mean an additional written notice or a telephone call.
5. **Requests for Records/Other Communications with Non-District Personnel** – Parental consent is requested for the following:
  - release of CSE/CPSE records to another agency/individual,
  - request for copies of reports/evaluations from another agency/individual,
  - request for verbal communications with another agency/individual (i.e.; private therapists),
  - refer to section on Special Education Records - Access and Confidentiality for further information in this regard.



**C. Due Process**

A mandatory Procedural Safeguards Notice has been provided to school district by the New York State Education Department.

The Procedural Safeguards Notice must be provided to the parents of a student with a disability, at a minimum one time per year and also upon:

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

**D. Prior Written Notice**

Prior written notice means written statements provided to the parents of a student with a disability a reasonable time before the district process to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student. Prior written notice will be on a form prescribed by the commissioner.

Prior written notice must include a description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action; a description of other options considered and rejected, a description of the evaluation and reports used as a basis for the decision, and a description of the factors relevant to the proposal or refusal. Prior written notice must also inform parents of their protection under procedural due safeguards and how a copy of these safeguards may be obtained. Parents are also provided sources to contact to obtain assistance in understanding these provisions.

Prior written notice must be written in language understandable to the general public and in the native language of the parents unless it is clearly not feasible to do so. A parent of a student with a disability may elect to receive prior written notice and other required communication by electronic mail (e-mail) communication if the school district makes this option available.

**II. INDEPENDENT EVALUATIONS**

- A.** At the time of CSE/CPSE initial, annual review or reevaluation, the special education office will inform parents regarding their right to an independent evaluation by providing them with a copy of the Procedural Safeguards Notice. When they disagree with the evaluation conducted by the CSE/CPSE, parents may request an independent evaluation. The school district has a right to initiate an impartial hearing to demonstrate that its evaluation is appropriate. If a hearing officer determines that the district's evaluation was appropriate, the parent is not entitled to reimbursement at the district's expense. Any independent evaluation, whether paid for by the parent or by the school district, will be reviewed by the CSE/CPSE and taken into consideration in its final placement determination.

**If you request an IEE**, the District will provide information about where to obtain one and about the school district's criteria that apply to IEEs.

**Definitions**

*Independent educational evaluation* means an evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of your child.

*Public expense* means that the school district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to you.

**Parent right to evaluation at public expense**

You have the right to an IEE of your child at public expense if you disagree with an evaluation of your child obtained by your school district, subject to the following conditions:

1. If you request an IEE of your child at public expense, your school district must, without unnecessary delay, either: (a) file a due process complaint to request a hearing to show that its evaluation of your child is appropriate; or (b) provide an IEE at public expense, unless the school district demonstrates in a hearing that the evaluation of your child that you obtained did not meet the school district's criteria.
2. If your school district requests a hearing and the final decision is that your school district's evaluation of your child is appropriate, you still have the right to an IEE, but not at public expense.
3. If you request an IEE of your child, the school district may ask why you object to the evaluation of your child obtained by your school district. However, your school district may not require an explanation and may not unreasonably delay either providing the IEE of your child at public expense or filing a due process complaint to request a due process hearing to defend the school district's evaluation of your child.

If parents intend to seek funding for the cost of the evaluation, they must adhere to the following criteria:

- The parent must request a copy of the Board policy prior to seeking an evaluation and reimbursement.
- The qualifications of the evaluator and the location of the evaluation shall be the same as the criteria which the district uses when it initiates an evaluation. *This includes, but is not limited to, the following:*
  - Psychologists must be licensed by the State of New York as clinical psychologists or certified as school psychologists. If certified as a school psychologist, the evaluator must conduct the evaluation in a school setting.
  - Other evaluators should be appropriately certified in the area of their specialty by the State Education Department.
  - The evaluation will take place in Nassau or Suffolk County.
  - The tests performed must be norm referenced for individual evaluation, appropriate for the age and educational level of the student, and measure the same cognitive, motor and affective skills as district tests.
  - The cost of an independent evaluation requested by a hearing officer shall be at district expense.

Reimbursement will not be in excess of the reasonable cost of such evaluation, less the portion of such costs paid through insurance or Medicaid payments. In the absence of unusual circumstances, costs will be deemed reasonable if it is within 5% of the average BOCES rate for an evaluation. Please note that information related to reimbursement is provided as a guideline. Should parents require additional information, please contact the Executive Director of Pupil Personnel Services.

### **Resources for Independent Evaluations**

***Child Development Center  
Nassau University Medical Center  
2201 Hempstead Tpke  
East Meadow, N.Y. 11554  
(516) 463-5660***

***North Shore Child and Family Guidance Center  
480 Old Westbury Rd.  
Roslyn Heights, N.Y. 11577  
(516) 626-1971***

***Schneider's Children's Hospital  
Developmental and Behavioral Pediatrics  
Suite 130  
1983 Marcus Avenue  
Lake Success, N.Y. 11042***

***Adelphi University  
(516) 802-6100***

***StonyBrook University Hospital  
33 Research Way  
East Setauket, NY 11733  
(631) 638-4027***

***Hofstra University  
Psych. Evaluation, Research and  
Counseling Clinic  
(516) 572-5914***

***Saltzman Speech/Lang Hearing  
Center  
Hempstead Tpke.  
(516) 463-5600***

***North Shore University Hospital  
The Center for Neuropsych. Serv.  
400 Community Drive  
Manhasset, N.Y. 11030  
(516) 562-3054***

***Center for Psych. Services  
(516) 877-4820***

### **III. SURROGATE PARENTS**

**A.** ***Surrogate parent*** means a person appointed to act in place of parents or guardians when a student's parents or guardians are not known, or when after reasonable efforts, the Board of Education cannot discover the whereabouts of a parent or the student is a ward of the State. The Board of Education shall select a surrogate parent from a list of individuals who are eligible and willing to serve as surrogate parents. The list is approved at the annual reorganization meeting of the Board.

#### **B. Qualifications**

1. Persons selected as surrogate parents cannot be officers, employees or agents of the school district or State Education Department or other agency involved in the education or care of the student and, to the extent possible, shall:
  - have no other interest which could conflict with their primary allegiance to the student they would represent;
  - be committed to acquaint themselves personally and thoroughly with the student and the student's educational needs;
  - be of the same racial, cultural and linguistic background as the student they seek to represent; and
  - be generally familiar with the educational options available to students with disabilities.

#### **C. Procedures for Assigning Surrogates**

Assignment of a surrogate parent to a particular student shall be made in accordance with the following procedures:

1. Any person whose work involves education or treatment of students who knows of a student who may need special education services or who knows that the parents or guardians are not known or are unavailable or that the student is a ward of the state, may file a request for assignment of a surrogate parent with the CSE/CPSE.
2. The CSE/CPSE shall send notice of the possible need for a surrogate parent to the adult in charge of the student's place of residence and to the parents or guardians at their last known address.
3. The CSE/CPSE shall determine whether the parents or guardians are unknown or unavailable, or whether the student is a ward of the State. This determination shall be completed within a reasonable time following the receipt of the original request for a surrogate parent. If the CSE/CPSE finds that there is a need for a surrogate parent, such assignment shall be made by the Board of Education or other body responsible for the provision of special education programming and services within ten (10) days of the date of determination by the Committee.
4. Once assigned, the surrogate parent shall represent the student at least through the time of the first periodic review of the student's educational placement.

#### **IV. SPECIAL EDUCATION MEDIATION**

**Special Education Mediation** is a process in which the parents of a student with a disability and a representative of the school district meet with an independent person, a mediator. By asking questions and discussing all information with both parties, the mediator helps the parents and school district representatives to reach a more complete understanding of each other's concerns and to reach an agreement about the special education programs and services that the student will receive. Mediation is voluntary and may not be used to deny or delay a parent's rights to an impartial hearing. The mediators are qualified, impartial and have been trained in effective mediation techniques. Mediation will be scheduled in a timely manner and held in a location convenient to the parties. Mediation occurs at no cost to either the parents or the school district.

If parents disagree with the decision of the Committee regarding their student's program or services, they have the option to participate in mediation. Choosing to participate in mediation does not limit other alternatives, such as requesting a meeting with the Committee or requesting an impartial hearing.

Unlike an impartial hearing, at the end of which the impartial hearing officer makes a decision about the kinds of special education programs and services the student will receive, the mediator does not make a decision. At the end of the mediation session, whatever the parents and the school district representative agree should be done is written down. Agreement may be reached on any or all of the concerns or issues which were discussed during the mediation session. Any remaining issues can be discussed further with the CSE/CPSE or can be reviewed by an impartial hearing officer. Discussions during the mediation session are confidential and may not be used as evidence in any subsequent hearings or proceedings.

Special Education Mediation will be conducted by the Community Dispute Resolution Center (CDRC) in Suffolk County. Each center is staffed by a number of highly qualified mediators who are not employed by the school district and who are not selected to be mediators by the school district.

## **V. IMPARTIAL HEARINGS**

A parent may initiate a hearing based on matters relating to the identification, evaluation or educational placement of a student with a disability or relating to the provision of a free appropriate public education. *The request must be in writing.* The request should include the name and address of the student, the school the student attends, and a description and proposed resolution to the problem. Upon request for a hearing by either the parent or the school district, parents will be given notice of the availability of mediation and of any free or low-cost legal or other relevant services.

The Board of Education will appoint an impartial hearing officer from the impartial hearing officer list. The rotational selection process for selecting the hearing officer will be initiated immediately, but not later than two business days subsequent to receipt of the request for the hearing. The impartial hearing officer appointed must be available to begin the hearing process within the first 14 calendar days of being contacted by the school district. The district will also provide a written or electronic verbatim record of the proceedings as well as interpreters of the deaf or interpreters fluent in the native language of the parent. All parties to the hearing will have the opportunity to present evidence and testimony at the hearing. At the hearing, all parties may be represented by legal counsel or individuals with special knowledge or training with respect to the problems of students with disabilities. Hearings will be conducted at a convenient time and location and the parent has the right to determine whether the student will attend the meeting. At least five business days prior to the hearing, each party will disclose to all other parties, all evaluations and recommendations based on the offering party's evaluations that the party intends to use at the hearing. The impartial hearing officer will render a decision and mail a copy of the written decision to the parents, the Board of Education and VESID/SED, not later than 45 calendar days for school-aged students and 30 calendar days for preschoolers.

after receipt by the Board of Education of request for a hearing. All personally identifiable information will be deleted. The decision of the hearing officer is binding upon both parties and is implemented in a timely manner unless appealed to the State Review Officer.

In the event that both parties agree that the impartial hearing officer is deemed incapacitated or otherwise unavailable or unwilling to continue the hearing or issue the decision, the Board of Education will rescind the appointment of the impartial hearing officer and appoint a new hearing officer, as appropriate.

As of July 1, 2002, the Board of Education must report information relating to the impartial hearing process including, but not limited to, the request for initiation and completion of each impartial hearing to ACCES-VR in a format and at an interval prescribed by the Commissioner.

For further information concerning the impartial hearing process, refer to the Notice of Due Process Rights.

## **VI APPOINTMENT OF IMPARTIAL HEARING OFFICERS**

The Board of Education annually establishes a list of persons from whom the district shall choose an impartial hearing officer. Commencing July 1, 1996, no individual employed by a school district, school or program serving students with disabilities placed there by a school district's CSE/CPSE may serve as an impartial hearing officer. Further, no individual employed by the school or programs may serve as an impartial hearing officer for two years following the termination of such employment.

### **A. An impartial hearing officer shall:**

1. be independent and shall not be an officer, employee or agent of the school district or of the Board of Cooperative Educational Services (BOCES) of which the school district is a component, or an employee of the Education Department, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall not have participated in any manner in the formulation of the recommendation sought to be reviewed;
2. be certified by the Commissioner as a hearing officer eligible to conduct hearings pursuant to Education Law Section 4404(1); and
3. successfully complete a training program conducted by the department, which provides information regarding state and federal laws and regulations relating to the education of students with disabilities, the needs of such students, the procedures involved in conducting a hearing and experience in reaching and writing a decision.

### **B. Procedures for Selection of Impartial Hearing Officers**

1. The selection of an impartial hearing officer must be made from a list of all hearing officers who are certified and available to serve in the school district.
2. The list must be established and maintained in alphabetical order with new appointees being inserted into the alphabetical order of the list.

3. Selection must be made on a rotational basis, beginning with the first name after the hearing officer who last served. If no hearing officer on the list has served, selection must be made beginning with the first name on the list.
4. If a hearing officer declines appointment, the Board must offer appointment to the next person on the list proceeding through the list following the established alphabetical order until an appointment is accepted.

**C. Procedures Pertaining to the Decision of the Impartial Hearing Officer**

1. The CSE/CPSE Chairperson shall ensure that, unless appealed by either party, all provisions of the hearing officer's decision are implemented. This includes providing the necessary information to any staff members who are responsible for implementing the decision. The CSE/CPSE chairperson may require, if indicated, written reports from those involved as to the status of the implementation.
2. The impartial hearing officer is responsible for rendering a decision and mailing a copy of the written findings of fact and decision to the parents, the Board of Education and to the Office of Special Services of the State Education Department. All personally identifiable information shall be deleted from the copy forwarded to the State Education Department.
3. The CSE/CPSE chairperson, upon receipt of the decision, shall confirm whether a copy has been forwarded to the State Education Department, in accordance with the Regulations. In the event this has not been done, the Chairperson will forward a copy to SED.

**For further information concerning the impartial hearing process, refer to the NYSED Procedural Safeguards Notice.**

**VII GUARDIAN *AD LITEM***

In the event the impartial hearing officer determines that the interest of the parent are opposed to or inconsistent with those of the student, or that for any other reason, the interests of a student would best be protected by appointment of a guardian *ad litem*, the impartial hearing officer shall appoint a guardian *ad litem* to protect the interests of the student unless a surrogate parent has previously been assigned. The impartial hearing officer shall ensure that the procedural due process rights afforded to the student's parent are preserved throughout the hearing whenever a guardian *ad litem* is appointed.

- A.** Guardian *ad litem* is defined as a person familiar with the provisions of the Part 200 Regulations who is appointed from the list of surrogate parents or who is a pro-bono attorney appointed to represent the interests of a student in an impartial hearing and, where appropriate, to join in an appeal to the State Review Officer initiated by the parent or Board of Education. A guardian *ad litem* shall have the right to fully participate in the impartial hearing to the extent indicated in the Regulations.

## **RECORDS ACCESS AND CONFIDENTIALITY**



## **I. NOTICE OF RIGHTS CONCERNING STUDENT RECORDS**

**A.** The following is an explanation of the rights of parents/guardians concerning school records relating to their student pursuant to the federal *Family Educational Rights and Privacy Act of 1974*:

1. Parents of a student under 18, or a student 18 or older, have a right to inspect and review any and all official records, files and data directly related to their student, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, score on standardized intelligence, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations and verified report of serious recurrent behavior patterns.
2. A parent of a student under 18 years of age or a student 18 years of age or older shall make a request for access to a student's (their own) school records, in writing, to the elementary principal of the building to which such student is assigned or the guidance counselor in the secondary school. Upon receipt of such request, arrangements shall be made to provide access to such records within a reasonable period of time, but in no case, more than 45 days after the request has been received.
3. Such parents and students are also entitled to an opportunity for a hearing to challenge the content of such records, to ensure that they are not inaccurate, misleading or otherwise in violation of the privacy or other rights of students and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein. Any questions concerning the procedure to be followed in requesting such a hearing should be directed to the Superintendent of Schools.
4. Student records and any material contained therein, which is personally identifiable, are confidential and may not be released or made available to persons other than parents or students without the written consent of such parents or student. There are a number of exceptions to this rule, such as other school employees and officials, and certain state and federal officials who have a legitimate educational need for access to such records in the course of their employment.
5. The Board of Education's student records policy includes directory information regarding students. In the policy, directory information includes the following items: student's name, address, telephone number, date of birth, parents names and dates of attendance. Parents have the right to have their student's name and the information indicated above removed from the Directory Information List. If a parent chooses to do so for the current school year, they are to advise the Office of the Superintendent of Schools in writing by a designated date. Parents who choose to remove their student's name and other information from the Directory Information List should be advised that it will impact data which parents receive through the channels of the PTA/PTO, including PTA/PTO phone chains regarding pertinent school information.

**B.**

**Definitions**

**The following definitions are as provided in federal or state law.**

1. ***Student:*** Any person who has received educational services or instruction within the District. This includes students who receive preschool services through the district CPSE.
2. ***Eligible Student:*** A student or former student who has reached the age of 18 or who is attending an institution of post-secondary school education, unless the parent has legal guardianship of the student. An *eligible student* (not his/her parent) has full access to his/her own records and is the only person who is authorized to consent to the release of such records. Such student may expressly authorize a parent or guardian to exercise access and release rights on his/her behalf, but such authorization must be in writing, and must be signed by the student in the presence of a third party.
3. ***Parent:*** Either parent, unless his/her right to access to school records has been specifically revoked by court order or a legally binding document, and the District has received notice of such court order or document. The term *parent* also includes a guardian who has been appointed by a court or who has demonstrated, to the satisfaction of the principal, that he or she is the actual and only person responsible for the student and for making decisions on the student's behalf. Non-custodial parents have the same rights concerning access to their student's educational records as do parents who have custody. The Board of Education may use the 45-day period to inform the custodial parent and afford him, or her, the opportunity to present a court order or other binding instrument barring the release of the data requested.
4. ***Education Record:*** A record which is maintained within the school district which relates to the preschool, elementary and/or secondary school education of a student within the district and which is accessible to more than one educator or other professional within the school district.
5. ***Personally Identifiable:*** Information that includes the name or address of the student, the student's parent or other family member, a personal identifier such as the student's social security or student identification number, or a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

**C.**

**Records Kept in the District, Their Location and Custodian**

The student's cumulative record is initiated upon the student's entry into school and follows the student through his/her school career. By the time the student completes secondary school, the record will include the following kinds of information: personal identification data, attendance records, health history, end-of-the-year development suggestions, academic history including subjects and grades failed and subjects dropped, secondary school subject sequences, type of diploma and date of graduation, report cards, standardized test results and follow-through letters regarding remedial services, high school transcript, correspondence which is pertinent to the educational development of the student, accomplishments, records of suspensions or other disciplinary matters, and honors and awards. Materials kept in that location should not include referral for educationally related support services (ERSS) or evaluation for special education, records from family court and student protective services, information relating to drug or alcohol abuse, and any other confidential material. The principal of the school shall determine if this

secondary record source for confidential records should be established. Information concerning AIDS related illness in a student or a family will be subject to the district's policy statement on AIDS.

**D. Annual Notification**

At the beginning of each school year, the district will publish a notification that informs parents, guardians and eligible students currently in attendance of their rights under FERPA and the procedures for exercising those rights. This notice may be published in a newspaper, handbook or other school bulletin or publication. This notice will also be provided to parents, guardians and eligible students who enroll during the school year.

This notice will include a statement that the parent/guardian or eligible student has a right to:

1. inspect and review the student's education records;
2. request that records be amended to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy rights;
3. consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent; and
4. file a complaint with the United States Department of Education alleging failure of the district to comply with FERPA and its regulations.

In addition, the annual notice will inform parents/guardians and eligible students:

1. that it is the district's policy to disclose personally identifiable information from student records, without consent, to other school officials within the district whom the district has determined to have legitimate educational interests. For purposes of this policy, a school official is a person employed by the district as an administrator, supervisor, instructor or support staff member (including health or medical staff and law enforcement unit personnel, a member of the Board of Education, a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, medical consultant or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official performing his or her tasks. A school official has a legitimate educational interest if the official needs to review a student record in order to fulfill his or her professional responsibilities.
2. that, upon request, the district will disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.
3. of the procedure for exercising the right to inspect, review and request amendment of student records.

The district will provide translations of this notice, where necessary, to parents, guardians and eligible students in their native language or dominant mode of communication.

## **E. Directory Information**

The district has the option under FERPA of designating certain categories of student information as “directory information”. The Board directs that “directory information” include a student’s name, address, telephone number, date and place of birth, major course of study, participation in school activities or sports, weight and height if a member of an athletic team, dates of attendance, degrees and awards received, most recent school attended, photograph, class schedule and class roster.

Once the proper FERPA notification is given by the district, a parent/guardian or eligible student will have 14 days to notify the district of any objections they have to any of the “directory information” designations. If no objection is received, the district may release this information without prior approval of the parent/guardian or eligible student.

The district may elect to combine both the annual notice of rights under FERPA and the annual notice of “directory information” designations into one notice.

## **II. INSPECTION OF SCHOOL DISTRICT RECORDS**

Parent(s), guardian(s) and eligible students may inspect and review the student’s official records, files and data directly related to the student upon compliance with the following conditions:

1. The parent or eligible student should submit to the student’s school principal in the elementary schools or guidance counselor in the secondary schools a written request for access to the student’s file. If a student’s records are maintained in several locations, the school principal will, upon request, collect the records so that they may be inspected at one site (except for special education records, as described below). Such review will be scheduled within reasonable time after receipt of the written request for access and in no case more than 45 calendar days from the date of that receipt. For records containing information on more than one student, parent/student access is limited to only the information which pertains to their student. The parent or eligible student has the right to request that the district provide a copy of the student’s educational records, if it is the only way that the records can be reviewed or inspected. The district may charge a reasonable cost for copies of the records, (\$.25 per page), unless the fee prevents inspection and review.
  - Special Education records may be obtained upon direct request to the Executive Director for Pupil Personnel Services. Appointments for review of special education records will be made upon a minimum of three days’ notice at the mutual convenience of staff and parent or eligible student.
  - In the case of a student with a disability or suspected of possessing a disability, educational records will be provided without unnecessary delay and before any meeting regarding an Individualized Education Plan (IEP) or other expedited hearing, but in no case more than 45 days after the request has been made.

2. Appropriate school district personnel will be present during record inspection to interpret and explain records. Records may be inspected between 9:00 AM and 3:00 PM. Parents may be accompanied by any person in reviewing records or may have an appropriately authorized representative inspect and review only the information relating to their student.

### III. RELEASE OF STUDENT RECORDS TO THIRD PARTIES

A. **Release with Consent** – Except under certain limited circumstances set forth in this policy and permitted by the Family Education Rights and Privacy Act, education records will be released to third parties only with the prior written consent of the parent or eligible student.

B. **Release Without Consent** – Records may be released without written consent only under certain circumstances. Exceptions to prior consent requirement adopted by the district include, but are not limited, to disclosure:

- to other school officials within the district who have been determined to have legitimate educational interests;
- to officials of another elementary or secondary school system where the student seeks or intends to enroll. *Records disclosed pursuant to this provision, without express written consent, will be only those deemed by the Superintendent to be essential for the provision of educational services/planning. The District shall give notice to parents or eligible students when such disclosure is made. They may request and receive a copy of any records released under this provision;*
- to authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or state and local education authorities in connection with an audit or evaluation of a federal or state supported education program or in compliance with legal requirements related to those programs;
- in connection with the student's application for or receipt of financial aid;
- to state and local officials or authorities in compliance with state law that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are being released;
- to organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid or improve instruction;
- to accrediting organizations to carry out their accrediting functions;
- to parents of a dependent student, as defined by the Internal Revenue Code;
- to comply with a judicial order or lawfully issued subpoena;
- in connection with a health or safety emergency;
- to teachers and school officials in other schools who have legitimate educational interests in the behavior of the student when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students or other members of the school community;
- to provide information that the district has designated as "directory information;" or
- to provide information from the school's law enforcement unit records.

Whenever a student record or any material contained therein is to be made available to third persons, other than those covered by the exceptions authorized by FERPA, the parent/guardian or eligible student must file a written consent to such action. The written consent must specify the records to be released, the reasons for such release, and to whom. If the parent or eligible student requests, the district will provide him or her with a copy of the records disclosed. In addition, if the parent of a student who is not an eligible student so requests, the district will provide the student with a copy of the records disclosed.

#### **IV. RECORDS OF REQUESTS FOR ACCESS TO EDUCATION RECORDS**

Current special education staff and administration have the right to continuous access to the special education student files. For all others, the district will maintain a record of all requests for disclosure of information from, or permission for access to, a student's special or general education record and will keep a record of all information disclosed and access permitted. Such a record will not include a request for access by the parents who have responsibility for the student, the student, persons whose request is accompanied by prior written consent, or a party seeking "Directory Information". The access record will be kept with the confidential record, or, in the case of records pertaining to special education, with those records. It will be available only to the record custodian, the eligible student, the parent of the student, or to public officials for the purpose of auditing or enforcing the requirement of federally supported educational programs.

##### ***The record will include:***

1. the name of the person or agency that made the request, the interest the person or agency had in the information, the date of the request;
2. whether the request was granted, and if so, the date access was permitted.

Such a record will be maintained as long as the student's education record is maintained.

Unless specifically exempted by FERPA, all persons requesting access to such records will be required to sign a written form which indicates the legitimate educational interest that such person has in inspecting the records. Such a form will be kept with the student's file and will be maintained with the student's file as long as the file is maintained.

#### **V. PROCEDURES FOR MAINTAINING CONFIDENTIALITY OF CSE AND CPSE RECORDS**

Student records and files are kept in locked files in an office that is also locked when left unattended. An electronic alarm system is activated when the building is closed. The CPSE/CSE secretaries monitor access to student files. They acknowledge and are familiar with all staff who have access. Professionals visit the CPSE/CSE office when they need access to a file. The CPSE/CSE secretary obtains the file and the professional proceeds to a designated area where the review can take place. The access log is signed. When the professional's review is complete, the file is returned to the CPSE/CSE secretary.

Only professionals who are working with the student and parents who are members of the CPSE/CSE are allowed access to the records. Specified support staff are also allowed access to student files in order to complete tasks such as filing, sending and receiving records, etc. The student's original record is not allowed out of the office at any time.

## **VI. PROCEDURES TO SEEK TO CORRECT EDUCATION RECORDS**

Parents/guardians and eligible students have a right to seek to change any part of a student's record which they believe to be inaccurate, misleading or in violation of the student's rights.

- A.** The parent/guardian or eligible student shall notify the principal or the Executive Director for Pupil Personnel Services of objections and shall prepare and sign a statement identifying the records believed to be inaccurate, misleading or otherwise in violation of rights together with a reason for challenge. The principal or the Executive Director for Pupil Personnel Services will hold an information conference with the parent/guardian or eligible student and, when possible, with the maker of the record.
- B.** The building principal or the Executive Director for Pupil Personnel Services shall provide a written response indicating either that he/she:
  - 1. finds the challenged record inaccurate, misleading or otherwise in violation of the student's rights and that the record will be corrected or deleted; or
  - 2. finds no basis for correcting or deleting the record in question, but that the parent/guardian or eligible student will be given an opportunity for a hearing. The written response by the building principal shall be provided to the parent/guardian or eligible student within 14 days after receipt of the written challenge. The response shall also outline the procedures to be followed with respect to a hearing regarding the request for amendment.
- C.** Within 14 days of receipt of the response from the Principal or the Executive Director for Pupil Personnel Services, a parent/guardian or eligible student may request, in writing, that a hearing be held to review the determination of the Principal or the Executive Director for Pupil Personnel Services. The hearing officer will be the Superintendent of Schools or a designated school official having no interest in the hearing's outcome.
- D.** The hearing shall be held within 10 days after the request for the hearing has been received.
- E.** The parent/guardian or eligible student shall be given a full and fair opportunity to present evidence at the hearing. The parent/guardian or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
- F.** After taking evidence, the hearing officer shall, within 14 days, render a written decision stating the disposition of the challenge and the reasons for the determination. If the hearing officer decides that the record is not accurate or is otherwise in violation of the rights of the student, he/she shall direct the principal or the Executive Director for Pupil Personnel Services to make the appropriate changes. Otherwise, he/she shall advise the parent of the right to place in the education record a statement commenting on challenged information as described in Section VI (B).

- G.** The decision of a hearing officer may be obtained by either the parent or the Board of Education. Thereafter, special education records or entries in the cumulative record may be reviewed, at the federal level, by the Family Policy and Regulations Office, U.S. Department of Education, Room 1087 FB 6, 400 Maryland Avenue, SW, Washington, D.C., 20202. In either case, a complaint may be in the form of a letter and should include specific claims of policy violations. If the Family Policy and Regulations Office finds the district to be out of compliance with applicable law, and if resolution cannot be reached informally, the office may refer the case to the Compliance Board of the U.S. Department of Education for a formal resolution of the conflict before an administrative law judge.

## **VII. RETENTION AND DISPOSITION OF STUDENT RECORDS**

The Board has adopted the Records Retention and Disposition Schedule ED-1 issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for district records. The Board directs all officials to adhere to the schedule and all other relevant laws in retaining and disposing of student records. In accordance with Article 57-A, the district will dispose of only those records described in the schedule after they have met the minimum retention periods set forth in the schedule. The district will dispose of only those records that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond the established legal minimum periods.

## **VIII. SPECIAL PROVISIONS RELATING TO ALCOHOL OR DRUG ABUSE SERVICES AND AIDS**

Services provided within the school district to diagnose drug or alcohol abuse or to provide treatment or direct referral for treatment will be subject to Federal Regulations on Confidentiality of Alcohol and Drug Abuse Patient records. Information, verbal or in written form, indicating participation in such a program will not be released without the student's written consent.

Effective February 1, 1989, all school personnel are required by law to protect the privacy of students or other people (i.e., family members) identified in student records as having AIDS or having tested positive for exposure to the AIDS virus. Each release of any such information requires the express written consent of the parent or the student, if over the age of 18. A separate consent is required for each disclosure. A consent for release of information which allowed a school to receive such information does not authorize disclosure by school personnel. Information covered by this provision shall not be included in a student's records unless necessary for the provision of educational services and appropriate care and, where it must be included, it shall to the greatest extent possible, be recorded separately from other information so as to allow the school to release other information, if authorized, without release of the AIDS-related information.

\*\*\*\*\*



## **DISCIPLINE**

## **I. SCHOOL CONDUCT AND DISCIPLINE**

In accordance with Section 100.2 of the Regulations of the Commissioner of Education, the Three Village Central School District has adopted and implemented a policy on school conduct and discipline designed to promote responsible student behavior. A copy of the policy is on file in each school building and is available for review by any resident of the district.

### **A. Authority of School Personnel**

1. School personnel may change the placement of a student with a disability to the extent that such alternatives would be applied to students without disabilities: (1) to an appropriate interim alternative educational setting or suspension for not more than 10 school days unless the manifestation team finds that the student's behavior was not a manifestation of the student's disability; and (2) to an appropriate interim alternative educational setting for not more than 45 days if the student brings a weapon or knowingly possesses, uses, sells or solicits illegal drugs while at school or a school function or inflicts serious bodily injury on another person. The setting shall be determined by the CSE.
2. Students with disabling conditions who are mainstreamed in the schools of the district are generally expected to meet mainstream standards for school conduct and are subject to the district-wide policy. However, when a student with a disabling condition repeatedly violates school rules, the student will be re-evaluated by the Committee on Special Education to determine whether the inappropriate conduct is related to the disabling condition (manifestation determination) and whether a change in placement is appropriate. When the conduct is related to the disabling condition, students with disabling conditions will be treated in accordance with their individual educational needs. If it is determined that the behavior was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, provided, however, that there not be a cessation of educational services.
3. If a special education student commits a serious disciplinary infraction which the principal believes warrants a suspension of more than five (5) days, the case will be referred to the Superintendent of Schools and to the CSE. In such cases, the Committee will review the incident and the student's records. The Committee will determine whether the incident is related to the student's disability (manifestation determination) and may also make a new placement recommendation. If a change in placement is recommended, but the parent or guardian wishes the student to remain in his/her current class setting, the Superintendent may conduct a fact-finding hearing under Section 3214 of the Education Law to determine whether there is evidence to substantiate the suspension allegations. If the charged acts are found to have been committed by the student, the Superintendent may order a suspension of up to ten days if manifestation has been found, or up to an equivalent suspension that would be given to a nondisabled student if no manifestation is found. Thereafter, the Committee will continue to work with the parent to identify an alternative placement acceptable to the parent.

## **B. Parent Appeal**

If the parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement, the parent may request a hearing. The district shall arrange for an expedited hearing in any case described in this section when requested by a parent.

In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the public agency has demonstrated that the student's behavior was not a manifestation of such student's disability consistent with the requirements above. In reviewing placement of a student in an interim alternative educational setting, the hearing officer shall apply the standards indicated in *Determination of Setting*.

When a parent requests a hearing to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative educational setting or shall remain suspended pending the decision of the hearing officer or until the expiration of the time period discussed in Sections *Authority of School Personnel* and *Authority of a Hearing Officer*, whichever occurs first, unless the parent and the district agree otherwise.

## **C. Authority of a Hearing Officer**

A hearing officer may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer: (1) determines that the district has demonstrated substantial evidence that maintaining the current placement is likely to result in injury to the student or to others; (2) considers the appropriateness of the student's current placement; (3) considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and (4) determines that the interim alternative educational setting meets the requirements described above.

The procedures differ if a student has been found guilty of the alleged misconduct relating to weapons, illegal drugs or controlled substances or the infliction of serious bodily injury. In such cases, the Committee may immediately transfer the student to a new setting for up to 45 days, whether or not the parent agrees with the Committee's recommendation. Thereafter, unless the CSE has found that there is a causal connection between the student's disability and the firearm violation, the student may be suspended by the Superintendent for up to one calendar year. Alternative instruction will be provided during this period.

## **D. Expedited Hearing**

If school personnel maintain that it is dangerous for the student to be in the current placement during the pendency of the due process proceedings, the district may request an expedited hearing. An expedited hearing will be held within 10 business days of the receipt

of the request. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards indicated in *Authority of a Hearing Officer*.

Notwithstanding anything in this policy, if the Superintendent concludes that the student's presence in school creates a substantial likelihood of danger to himself or others, the school district may seek injunctive relief in a state or federal court with respect to a change of placement pending the outcome of review proceedings.

#### **E. Protections for Students Not Yet Eligible for Special Education and Related Services**

A student who has not yet been determined to be eligible for special education under this part and who has engaged in behavior that violated any rule or code of conduct of the district, including any behavior described above, may assert any of the provisions described herein if the district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. The district shall be deemed to have knowledge that a student is a student with a disability if:

- The parent of the student has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the district that the student is in need of special education or related services.
- The behavior or performance of the student demonstrates the need for such services.
- The parent of the student has requested an evaluation of the student.
- The teacher of the student, or other personnel of the District, has expressed concern about behavior or performance of the student to the CSE or other personnel of the district.

If the district does not have knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under sections *Authority of School Personnel* or *Authority of Hearing Officer* above, the evaluation shall be conducted in an expedited manner. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the student shall remain in the education placement determined by school authorities.

#### **F. Referral to Law Enforcement Authorities**

Nothing prohibits a district from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from

exercising their responsibilities. A district reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports a crime.

\*\*\*\*\*

# MISCELLANEOUS

## **I. ACCESS TO ACADEMIC AND DISCIPLINARY CONFERENCES**

It is the policy of the school district to assure access for parents of students with disabilities to school-initiated conferences with respect to educational planning or school discipline. Accordingly, a sign language interpreter will be provided, upon request, to hearing-impaired parents who require such assistance. Parents requiring this or another accommodation (i.e., translators, barrier-free site) to participate in meetings of the Committee on Special Education or Committee on Preschool Special Education are requested to notify the Special Education Office.

## **II. ACCESS TO PROGRAMS AND EXTRACURRICULAR ACTIVITIES**

Students with disabilities residing in the school district have the opportunity to participate in all programs and activities administered by the district and available to the students enrolled in district public schools, providing that the students seeking to participate are otherwise qualified to participate in such programs and activities.

## **III. ACCESS TO EDUCATIONAL OPPORTUNITIES**

### **Title IX of the Education Amendments of 1972**

Employment and educational opportunities, including vocational educational opportunities, are offered by the Three Village Central School District to boys and girls on an equal basis without discrimination on the basis of sex.

Discrimination on the basis of sex in education programs and activities is prohibited by Title IX. The District's official responsible for the coordination of activities relating to non-discrimination is the Assistant Superintendent for Educational Services, who serves as the Title IX Coordinator. The Coordinator will provide information, including information on complaint procedures, to any student or employee who feels that the District or its officials may have violated his or her rights under Title IX. The office is at the North Country Administrative Center of the Three Village Central School District at 100 Suffolk Avenue, Stony Brook, New York 11790. The coordinator's telephone number is (631) 730-4060. In addition, any student or employee may make an inquiry or a complaint directly to the Federal Office for Civil Rights or New York State Division for Human Rights.

## **IV. SCREENING PROCEDURES**

- A.** A comprehensive program has been developed by the school district to locate, identify and provide programs for those students who need special services, including students who are gifted. Diagnostic screenings are conducted for kindergarten students, new entrants into the district and students scoring below reference points on state examinations.

The diagnostic screening includes a health examination, review of immunization records and a determination of receptive and expressive language development, motor development, articulation skills, and cognitive development. A report is prepared containing the results of the diagnostic screening conducted on each student.

**B. Screenings are conducted as follows:**

- **Kindergarten Screening** – all pre-kindergarten students are screened in the spring prior to scheduled entrance into kindergarten.
- **New Entrant Screening** – all new entrants are screened no later than December 1 of the school year of entry or within 15 days of transfer should the entry occur after December 1.

Students suspected of having a disability as a result of diagnostic screening must be referred to the CSE within 15 days after completion of the screening. Parents of any student suspected of having a disability, which indicates the possible need for special education services, will be notified.

**V. GUIDELINES FOR PROVIDING PUBLIC SCHOOL SERVICES TO STUDENTS IN NON-PUBLIC SCHOOLS**

The procedures to locate, identify and evaluate all nonpublic school students with disabilities, including students attending religiously-affiliated schools residing in the school district, must be comparable to activities undertaken for students with disabilities in public schools.

The Board of Education is required to furnish special education programs and services to all students with disabilities who attend a nonpublic school located within the district, upon the written request of the student's parent. If a parent of a student with a disability wishes to have his or her child receive special education programs and services while enrolled in the nonpublic school, the parent must file a written request for special education services with the school district of location by June 1<sup>st</sup> of the year preceding the school year for which services are requested.

**A. Screening**

1. **Definition:** Screening is provided pursuant to Part 117 of the Regulations of the Commissioner of Education. It is available for new entrants into the public school at kindergarten or following transfer, and is for the purpose of determining whether students may have a disability.
2. Upon request of a non-public school located within the school district, the Three Village Central School District will provide screening services to resident and non-resident students who attend the non-public school.
3. The cost of screening for out-of-district residents is paid by the district of residence pursuant to Section 912 of the Education Law and the Health and Welfare Contract (hereinafter referred to as the Section 912 Contract).



4. Notice of screening results will be provided to the principal of the non-public school.
5. In the case of resident students, notice of a possible disability will be provided directly to the Committee on Special Education.
6. For non-residents, notice of a possible disability will be provided to the principal of the non-public school.

**B. Referrals for Evaluation of Students Thought To Be Disabled**

1. All students who attend non-public schools within the boundaries of Three Village Central School District may be referred to the Committee on Special Education of the school district in exactly the same manner as students who attend public schools.
2. In the case of referral, regular procedures are followed. The CSE (or building designee) obtains parental consent for evaluation and schedules the evaluation.
3. In all cases, the Committee on Special Education will review the results of the evaluations to determine if special education services are warranted.

**C. Services to Students Identified as Disabled**

1. If a student is identified by the Committee on Special Education as being in need of special education, the Committee must notify the parent that the student is entitled to an appropriate education at public expense. However, if the parent wishes to continue the student in a non-public school, the district may offer related services or resource room instruction to assist the student to benefit from general education.
2. If a parent disagrees with any recommendation of the Committee with respect to either identification or choice of services, the parent may seek mediation or appeal the recommendation to an impartial hearing officer in accordance with Section 200.5c of the Regulations of the Commissioner of Education.
3. Related services and educational services for resident students will be provided within the district in which the non-public school is located, if at all possible, pursuant to the Section 912 Contract. Related services include counseling, speech and language therapy, occupational therapy, physical therapy and any other health or welfare services.
4. For non-resident students, educational services (resource room) are not included in the Section 912 Contract and will be provided at the expense of the home district. The home district may request resource room placement for the student in the district in which the non-public school is located, or may offer resource room placement within its own district. If the parent disagrees with the home district's choice of site for resource room instruction, the parent may initiate an impartial review of the determination of the home district. If the district in which the non-public school is located refuses access to its resource room program, the parent may appeal this determination directly to the Commissioner of Education.
5. If a parent refuses to accept any service, and the student appears to be in need of services, the district of residence has authority to initiate an impartial review of the parent's refusal to consent to such service. However, the district cannot compel the parent of a student with a disability to place the student in public school.

**D. Reimbursement for Unilateral Placement in a Private School**

A school district is not required to pay for the tuition for a student with a disability placed in a private school or facility by a parent if that school district made a free appropriate public education available to the student and the parents, instead, elected to place the student in the private school or facility.

If the parents of a student with a disability, who previously received special education and related services under the authority of the district, enroll the student in a private elementary or secondary school without the consent of or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made a free appropriate public education available to the student in a timely manner prior to that enrollment.

**1. The cost of reimbursement may be reduced or denied if:**

- a. at the most recent IEP meeting that the parents attended prior to the removal of the student from the public school, the parents did not inform the Committee that they were rejecting the placement proposed by the district to provide a free appropriate public education to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or
- b. 10 business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to the school district of the information described in the preceding paragraph; or
- c. prior to parental removal of the student from the public school, the school district informed the parents, through the notice requirements described in Section 615 (b)(7) of the Regulations of the Commissioner of Education, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or
- d. upon judicial finding, unreasonableness with respect to actions taken by the parent has been found.

**2. The cost of reimbursement may not be reduced or denied for the parents' failure to provide written notice if:**

- a. the parent is illiterate and cannot write English; or
- b. compliance would likely result in physical or serious emotional harm to the student; or
- c. the school prevented the parent from providing such notice; or
- d. the parents did not receive notice, pursuant to Section 615, of their obligation to provide the written notice described above.

## **DISTRICT PROGRAMS**

## **I. DISTRICT SPECIAL EDUCATION DAY PROGRAMS**

**The following is a description of the continuum of services offered within the Three Village Central School District. The description is meant as a guideline, but the CSE will make placement decisions based on the individual needs of each student.**

### **A. Related Services**

The student with a disability may require a number of sessions per week of related or support services provided by a specialist. The frequency, duration, and location of services is found in the IEP of each student. . Students who require speech services must receive at least two sessions per week. Other related services which are provided include counseling, occupational therapy, physical therapy, counseling, orientation and mobility training, bowel and bladder training, visually impaired program services and hearing-impaired and audiology services.

Related services may be provided in conjunction with a regular education program or with other special education programs and services.

### **B. Consultant Teacher Services**

The services of a consultant teacher are recommended for students who are fully integrated into the mainstream. The service is available for students in grades kindergarten through twelve who can benefit from the general curriculum with limited special services.

As defined in Sections 200.1(m) and 200.6(d) of the Regulations, consultant teacher services means direct and/or indirect services provided to a student with a disability who attends general education classes and/or to such student's general education teachers. General education classes include career and technical education. Direct consultant teacher services means specially designed individualized or group instruction provided by a certified special education teacher to a student with a disability to aid such student to benefit from the student's general education classes.

The consultant is a certified Special Education teacher who works directly or indirectly with the student having special needs for a minimum of two (2) hours per week. Through collaboration with the general education classroom teacher and other specialists, an individualized program is designed to assist the student's learning within the general education classroom setting.

In addition to the consultant teacher who works in collaboration with the general education class teacher, support staff may include the speech/language therapist, school psychologist, or other support personnel.

While every special education program must address individual learning styles and needs, students served in the consultant teacher model share the following similarities:

- The students are able to learn within the general education classroom with limited direct intervention from the special educator.

The following factors should be considered when determining the appropriateness of consultant teacher services.

**Academic Considerations:** Students should have the prerequisite knowledge and skills related to the goals and objectives of the general education curriculum. This includes essential reading and math skills. The student's learning rate should be consistent with the nondisabled students in the class. This rate should be considered in relation to the provision of support, which would be provided to the student during the instructional process.

**Social Considerations:** Students should demonstrate age-appropriate behavior or behavior that could be modified through positive behavior interventions, strategies and supports. Students should demonstrate the ability to work independently and in small groups with and/or without direct support from an adult in the classroom. The behavior of the student should not impair the education of other students in the classroom.

**Management Considerations:** The student should require minimal to moderate environmental modifications and human support services in order to benefit from instruction.

The role of the consultant teacher is to collaborate with the classroom teacher, parent and other support personnel in the development of an appropriate classroom program. This may include modification of material, procedures and methods of instruction or, at times, direct instruction to the student.

#### **C. Resource Room**

Resource room programs are available in each of the district's schools. Program placement and grouping are determined by a review of the individual needs of each student and not, primarily, the disability. Students must receive a minimum of three hours per week of instructional support in small groups not to exceed five students.

#### **D. Special Classes: (Alternate Learning Center/ALC)**

A student with a disability shall be placed in a special class for instruction on a daily basis to the extent indicated in the student's individualized education program. (2) In all cases the size and composition of a class shall be based on the similarity of the individual needs of the students according to: (i) levels of academic or educational achievement and learning characteristics; (ii) levels of social development; (iii) levels of physical development; and (iv) the management needs of the students in the classroom. (3) A special class shall be composed of students with disabilities with similar individual needs.

Special class options across the district include 6:1:1, 8:1:1, 12:1:1, and 15:1. A wide range of related services, adaptive equipment, specialized instructional methods and the use of technology are provided based on individual student needs. A unique and highly successful aspect of the high school program is the Community Based Vocational Training Program. Students in this program are placed at community businesses and various sites within the district where vocational skills are taught and practiced with the support of an on-site job coach.

The chronological age range within special classes of students with disabilities who are less than 16 years of age shall not exceed 36 months. The chronological age range within special classes of students with disabilities who are 16 years of age and older is not limited.

**F. Declassification and Transitional Support Services**

Declassification support services are provided to either a student or a student's teacher to assist the student's movement from special education to a full-time regular education placement. Declassification services may be provided for up to one year after a student exits the special education placement and are based upon the recommendations of the CSE. Declassification services are provided by the special education teacher or the student personnel staff designated by the CSE.

Transitional support services are those temporary services, specified in a student's individualized education plan (IEP), provided to a regular or special education teacher to aid in the provision of appropriate service to a student with a disability transferring to a regular program or to a placement in a less restrictive setting. Transitional support services are provided by a student personnel services staff member designated by the CSE.

**G. Home and Hospital Instruction**

Hospital and homebound instruction are considered to be the most restrictive of educational settings. Hospital and homebound instruction are generally considered to be a temporary placement to satisfy the immediate educational needs of a student until another placement is obtained or until the student is well enough to be placed in a different educational placement.

**II. OTHER SUPPORT SERVICES – (ALL SCHOOLS)**

**A. School Psychological Services**

The following major areas of responsibility are assigned to school psychologists: assessment; observation; test administration and interpretation; participation in Committee on Special Education (CSE) referral; evaluation and placement; monitoring of student progress; consultation with teachers; student and parent counseling; and liaison with other professionals. Additional functions relating to special education classes include: assisting teachers in the development of interventions to help students and the development of Individualized Education Programs (IEPs); monitoring the delivery of services to special education students; conducting three year reevaluations; exploring out-of-district educational alternatives, when necessary; monitoring progress of students after placement; training teachers in the implementation of new regulations and procedures; and managing programs for homebound or hospitalized students.

**B. Social Worker**

The following major areas of responsibility are assigned to social workers: monitoring students' progress; consultation with teachers; providing transitional support services to students moving into programs that are less restrictive; parent education; student and parent counseling; intervening during crisis (i.e., student abuse, bus problems, etc.); and liaison between school, home and community agencies.

**C. Speech, Language and Hearing Services**

Specialists in speech and language assist school staff with the identification and instruction of students with speech, language and hearing disorders. They provide diagnostic and remedial services for students with articulation disorders, stuttering and voice disorders, expressive and receptive language problems, hearing deficits, cerebral dysfunction, oral-motor disorders and cleft palate. Much of the activity of these specialists involves observation, individual testing and counseling, related conferences with parents and consultations with teachers regarding instructional methods.

**D. Physical Therapy**

Physical therapy is provided in order for a disabled student to benefit from education or to be maintained in the least restrictive environment. The following services may be provided: coordination between medical agencies and professionals serving the student; evaluation of strength, function, motor development and adaptive needs of the student; program planning and treatment, when indicated; consultation with general education teachers in the mainstreaming process; supervision and instruction of nonprofessional personnel in dealing with the physical needs of the students (provided through contracted services).

**E. Occupational Therapy**

The occupational therapist serves students whose disabilities prevent them from functioning normally within the school environment. The duties of the occupational therapist include individual assessment, increasing strength and quality of movement of the upper extremities necessary for handwriting and other classroom fine motor tasks, modulating a student's sensory responses that interfere with everyday activities, developing the activities of daily living, providing adaptive equipment as necessary and counseling students with disabilities around their participation in activities. The goal of the occupational therapist is to provide appropriate treatment to increase the student's ability to function independently in the school environment (provided through contracted services).

**F. Hearing Education**

Hearing Education is designed to provide direct specialized instruction to students with hearing disabilities who are enrolled in a general or special education program. Specialized instruction in speech, reading and auditory training is provided by a teacher of the deaf and hard of hearing. These services are necessary in order for students to benefit from their primary educational program (provided through the BOCES contract).

**G. Vision Education**

Vision Education is designed to provide direct specialized instruction to students with visual impairments who are enrolled in a general or special education program by a teacher of the visually impaired. This related service includes direct instruction in the use of various optical aids, use of large print books and worksheets, tactile and recorded material and current technology. Teachers may also assist students in acclimating themselves to new instructional environments and may assist other teachers in meeting the student's educational needs (provided through contracted services).

#### **H. Orientation and Mobility Service**

Orientation and mobility training for students who are vision impaired or blind is based on a student's cognitive ability and geared to his or her specific vision deficit. This training assists students in traveling safely in a variety of environments and develops their independence (provided through contracted services).

### **III. OUT-OF-DISTRICT PROGRAMS**

#### **A. BOCES Programs (K-12)**

The Board of Cooperative Educational Services (BOCES) offers an array of programs to service disabled students within the Eastern Suffolk district. When the CSE determines that a student's educational needs cannot be met by any district special education program or one in a neighboring school district, an alternative placement is sought in BOCES.

#### **B. Private Day Schools (K-12)**

When an appropriate placement cannot be found in a public school setting, the district may contract with a private day school to provide the special education.

#### **C. Residential Placements (K-12)**

Occasionally, a student, for a variety of reasons, requires a twenty-four hour a day program in order for his/her needs to be met. Such students generally have severe disabilities which require intensive behavioral, medical and/or instructional accommodations.

#### **D. State-Supported Schools (K-12)**

Application for admission to a state-supported school is made directly by the parent. Each school has a CSE that develops the IEP for each student. The Three Village Central School District provides transportation and maintains contact with the student and parent through the assigned district liaison person.

### **IV. GUIDANCE PROGRAM**

An effective guidance program offers services that are integrated into the total school climate and curriculum and that influences all activities associated with the learning process. These services must follow a consistent coordinated pattern of organization in order to make the total educational process relevant to the learner. This program, at all school levels, will enhance the achievement of goals and objectives of the school.

This program ensures that all students, regardless of disability, have an opportunity to take advantage of the guidance program. All students, including students identified as disabled, have access to group or individual counseling. ERSS services, which may include counseling, are also available. Every disabled student will have the same opportunity to review educational progress and career plans on an annual basis as non-disabled students.

**The guidance program's objectives are that each student will:**

- develop a realistic understanding of self;
- develop skills in problem solving and decision making;



- explore the world of work and develop the understanding and skills necessary to make realistic, educational and vocational choices;
- develop positive interpersonal relationships;
- develop the academic and personal skills necessary to prepare them to successfully meet the challenges of today's complex world.

# SCHOOL-AGE STUDENTS WITH DISABILITIES RECEIVING SPECIAL EDUCATION SERVICES

on October 7, 2020

Line Number	Disability  (As of Snapshot Date)	Age as of October 7, 2020									
		4	5	6	7	8	9	10	11	12	Total
01	Autism	0	10	8	6	2	11	8	4	5	61
02	Emotional Disturbance	0	0	1	1	1	2	1	0	3	9
03	Learning Disability	0	0	0	2	5	8	15	12	16	58
04	Intellectual Disability	0	0	0	1	0	0	0	1	0	2
05	Deafness	0	0	0	0	0	0	0	0	0	0
06	Hearing Impairment	0	0	0	0	1	0	0	0	1	2
07	Speech or Language Impairment	3	23	25	22	25	25	23	12	12	170

08	Visual Impairment (Includes Blindness)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
09	Orthopedic Impairment	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>	<u>2</u>
10	Other Health Impairment	<u>0</u>	<u>3</u>	<u>6</u>	<u>11</u>	<u>14</u>	<u>18</u>	<u>20</u>	<u>29</u>	<u>18</u>	<u>119</u>
11	Multiple Disabilities	<u>0</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>3</u>	<u>14</u>
12	Deaf-Blindness	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
13	Traumatic Brain Injury	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
14	<i>Total (Lines 1-13)</i>	<u>3</u>	<u>37</u>	<u>41</u>	<u>46</u>	<u>56</u>	<u>66</u>	<u>69</u>	<u>62</u>	<u>59</u>	<u>439</u>

Line Number	Disability  (As of Snapshot Date)	Age as of October 7, 2020									
		13	14	15	16	17	18	19	20	21	Total
01	Autism	<u>14</u>	<u>9</u>	<u>13</u>	<u>12</u>	<u>9</u>	<u>9</u>	<u>9</u>	<u>4</u>	<u>1</u>	<u>80</u>
02	Emotional Disturbance	<u>1</u>	<u>3</u>	<u>3</u>	<u>6</u>	<u>10</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>24</u>
03	Learning Disability	<u>14</u>	<u>22</u>	<u>19</u>	<u>13</u>	<u>16</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>86</u>
04	Intellectual Disability	<u>0</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>5</u>
05	Deafness	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
06	Hearing Impairment	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>
07	Speech or Language Impairment	<u>16</u>	<u>12</u>	<u>9</u>	<u>3</u>	<u>10</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>53</u>
08	Visual Impairment  (Includes Blindness)	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
09	Orthopedic Impairment	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>
10	Other Health Impairment	<u>17</u>	<u>21</u>	<u>18</u>	<u>22</u>	<u>23</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>102</u>
11	Multiple Disabilities	<u>3</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>4</u>	<u>4</u>	<u>1</u>	<u>1</u>	<u>21</u>

12	Deaf-Blindness	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
13	Traumatic Brain Injury	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
14	<i>Total (Lines 1-13)</i>	<u>66</u>	<u>73</u>	<u>67</u>	<u>60</u>	<u>71</u>	<u>20</u>	<u>15</u>	<u>5</u>	<u>2</u>	<u>379</u>

Line Number	Disability  (As of Snapshot Date)						
		Total Ages 4-5	Total Ages 6-11	Total Ages 12-13	Total Ages 14-17	Total Ages 18-21	Grand Total for 2020-21
01	Autism	<u>10</u>	<u>46</u>	<u>19</u>	<u>43</u>	<u>23</u>	<u>141</u>
02	Emotional Disturbance	<u>0</u>	<u>6</u>	<u>4</u>	<u>22</u>	<u>1</u>	<u>33</u>
03	Learning Disability	<u>0</u>	<u>42</u>	<u>30</u>	<u>70</u>	<u>2</u>	<u>144</u>
04	Intellectual Disability	<u>0</u>	<u>2</u>	<u>0</u>	<u>4</u>	<u>1</u>	<u>7</u>
05	Deafness	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>

06	Hearing Impairment	<u>0</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>0</u>	<u>4</u>
07	Speech or Language Impairment	<u>26</u>	<u>132</u>	<u>28</u>	<u>34</u>	<u>3</u>	<u>223</u>
08	Visual Impairment (Includes Blindness)	<u>0</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>2</u>
09	Orthopedic Impairment	<u>0</u>	<u>1</u>	<u>1</u>	<u>3</u>	<u>1</u>	<u>6</u>
10	Other Health Impairment	<u>3</u>	<u>98</u>	<u>35</u>	<u>84</u>	<u>1</u>	<u>221</u>
11	Multiple Disabilities	<u>1</u>	<u>10</u>	<u>6</u>	<u>8</u>	<u>10</u>	<u>35</u>
12	Deaf-Blindness	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
13	Traumatic Brain Injury	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>
14	<i>Total (Lines 1-13)</i>	<u>40</u>	<u>340</u>	<u>125</u>	<u>271</u>	<u>42</u>	<u>818</u>

**School Age Students in LRE Setting  
as of October 7, 2020**

		A	B	C	D	E
Line Number	Time INSIDE Regular Classroom	Age Group				
		5-11	12-13	14-17	18-21	Total
01	80% or more	<u>21</u>	<u>6</u>	<u>17</u>	<u>0</u>	<u>44</u>
02	40% to 79%	<u>3</u>	<u>6</u>	<u>17</u>	<u>5</u>	<u>31</u>
03	Less than 40%	<u>29</u>	<u>4</u>	<u>4</u>	<u>13</u>	<u>50</u>
04	<i>Total</i>	<u>53</u>	<u>16</u>	<u>38</u>	<u>18</u>	<u>125</u>

**School Age Students in LRE Setting  
as of October 7, 2020**

		A	B	C	D	E
Line Number	Type of Setting	Age Group				
		5-11	12-13	14-17	18-21	Total
01	Separate School	<u>2</u>	<u>2</u>	<u>1</u>	<u>3</u>	<u>8</u>
02	Residential Facility	<u>0</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>2</u>
03	Hospital (In-patient)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
04	Home Placement by CSE	<u>0</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>
05	<i>Total</i>	<u>2</u>	<u>3</u>	<u>3</u>	<u>5</u>	<u>13</u>

## Preschool LRE Setting Report

**October 7, 2020**

Educational Environment		A	B	C	D	E	F	G
		Age 3	Age 4	Total # of Students Ages 3-4 (October 7, 2020)	Total # of Students Ages 3-4 (October 2, 2019)	Male	Female	Total Gender
Attending a regular early childhood program for 10 or more hours a week	and receiving the majority of hours of special education and related services in the regular early childhood program	<u>6</u>	<u>15</u>	<u>21</u>	18	<u>9</u>	<u>12</u>	<u>21</u>
	and receiving the majority of hours of special education and related services in some other location.	<u>3</u>	<u>11</u>	<u>14</u>	22	<u>11</u>	<u>3</u>	<u>14</u>
Attending a regular early childhood program for less than 10 hours a week	and receiving the majority of hours of special education and related services in the regular early childhood program	<u>1</u>	<u>1</u>	<u>2</u>	4	<u>1</u>	<u>1</u>	<u>2</u>



	and receiving the majority of hours of special education and related services in some other location	<u>3</u>	<u>4</u>	<u>7</u>	7	<u>6</u>	<u>1</u>	<u>7</u>
Separate Class		<u>9</u>	<u>11</u>	<u>20</u>	19	<u>16</u>	<u>4</u>	<u>20</u>
Separate School		<u>0</u>	<u>0</u>	<u>0</u>	0	<u>0</u>	<u>0</u>	<u>0</u>
Residential Facility		<u>0</u>	<u>0</u>	<u>0</u>	0	<u>0</u>	<u>0</u>	<u>0</u>
Home		<u>7</u>	<u>3</u>	<u>10</u>	4	<u>5</u>	<u>5</u>	<u>10</u>
Service Providers Location		<u>1</u>	<u>0</u>	<u>1</u>	0	<u>0</u>	<u>1</u>	<u>1</u>
(3.0) Total		<u>30</u>	<u>45</u>	<u>75</u>	74	<u>48</u>	<u>27</u>	<u>75</u>

## DISTRICT BASED PROGRAMS FOR THE 2021-22 SCHOOL YEAR

Listed Below are the District-based programs for the 2021/2022  
School Year

No. of Classes	Program	School
5	ALC 8:I:I (grades K-6)	Arrowhead
2	ALC 12:I:I (grades K-6)	Arrowhead
1	ALC 15:I (grade 6)	Arrowhead
3	DTC (grades 3, 5, 6)	Arrowhead
1	ALC 12:I:I (grades K-2)	Minnesauke
1	DTC (grade 2)	Minnesauke
2	ESD program (grades 4, 5)	Minnesauke
1	DTC (grade 6)	Mount
1	ALC 12:I:I (grades K-2)	Nassakeag
3	DTC (grades K, 4, 5)	Nassakeag
2	ALC 12:I:I (grades K-6)	Setauket
6	DTC (grades 1-6)	Setauket
3	ESD program (grades 4-6)	Setauket
1	ALC 12:I:I (grades 7-9)	Gelinas
3	I5:I (grades 7-9)	Gelinas
3	DTC (grades 7-9)	Gelinas
1	ALC 6:I:I (grades 7-9)	Murphy
2	ALC 15:I (grades 8,9)	Murphy
2	DTC (grades 7,9)	Murphy
2	ALC 8:I:I (grades 10-12)	WMHS
2	ALC 12:I (grades 10-12)	WMHS
3	ALC 15:I (grades 10-12)	WMHS
3	DTC (10-12)	WMHS