

Policy

No. 210 (2460)

Board of Education Nutley

PROGRAM

SPECIAL EDUCATION

The Board of Education shall endeavor to provide full educational opportunity to all pupils with disabilities from birth to twenty-one years of age or the pupil's transfer from this district. Accordingly, the Board shall, in compliance with law and rules of the State Board of Education, provide a free and appropriate public education and/or related services to eligible educationally handicapped pupils who are impaired physically, emotionally, intellectually, or socially to such an extent that without the aid of special education and related services they are educationally disadvantaged and to preschool handicapped children who would be benefited by special education programs and services that will prevent their handicaps from becoming more debilitating.

As used in this policy and its implementing regulations, "parent" means either or both of the natural, adoptive, or foster parents of a pupil, or the pupil's legal guardian or surrogate parent, or a person acting in the place of a parent such as the person with whom a pupil legally resides and/or the person legally responsible for the pupil's welfare. Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights under this policy and implementing regulations.

Exemption from graduation requirements N.J.A.C. 6:28-1.4(a)1

Unless specifically exempted, all educationally handicapped pupils must meet state and local requirements for graduation. An exempted pupil's individualized education program (IEP) must include a list of any exemptions from the regularly required educational program options or graduation requirements and a rationale for each such exemption. If the goals and objectives in a pupil's IEP do not include the proficiencies measured by the high school proficiency test (HSPT) and/or the requirement to demonstrate mastery of curricular proficiencies, the pupil's IEP will state the reasons for that exclusion. Any exemption from graduation requirements for the HSPT or demonstration of the mastery of curricular proficiencies must be approved by the Superintendent. The IEP of any pupil exempted from HSPT and/or curricular proficiencies must set forth alternate proficiencies, the achievement of which will qualify the pupil for a regular high school diploma.

Educationally handicapped pupils are subject to the provisions of Policy No. 519 (5460) High School Graduation, including eligibility for the special review assessment, in accordance with N.J.A.C. 6:8-7.1(b), and the option for receiving a diploma from this district on qualification for a diploma in a school outside this district, in accordance with N.J.A.C. 6:28-4.8(c).

Each educationally handicapped pupil who meets standards for graduation pursuant to this policy shall be offered the opportunity to participate in graduation ceremonies and related activities without discrimination.

The Superintendent shall report annually to the Commissioner of Education and to the Board at a public meeting the number of pupils graduating under special education.

Prevention of needless public labeling N.J.A.C. 6:28-1.4(a)2

The Board directs that the names and other personally identifiable data concerning identified and handicapped children be kept confidential and not be included in the public acts and records of this district, except upon the written request of the parent or adult pupil. Such names and data will be reduced to code for inclusion in the public record.

The use of school public address systems; the placement of signs in classrooms and hallways; the distribution and circulation of documents, photographs, audio tapes, and video tapes; and other means of identifying pupils will be consistent with this policy for the avoidance of needless public labeling of pupils as educationally handicapped.

Pupil records N.J.A.C. 6:28-1.4(a)3

The records of handicapped pupils will be compiled, maintained, protected, and accessed in strict compliance with N.J.A.C. 6:3-2 and Policy No. 516 (8330) on pupils records. The mandated records of a pupil placed in a State facility will be provided to the Department of Human Services or Corrections, as appropriate, and the parent or adult pupil will be given notice of the release of records.

The parent of an educationally handicapped pupil and an adult educationally handicapped pupil shall be afforded an opportunity to inspect and review all educational records with respect to the identification, evaluation, and education of the pupil and the provision of a free, appropriate public education. When inspection of records is requested in connection with a pending meeting regarding a pupil's IEP, the inspection will occur without unnecessary delay.

Identification, location, and evaluation N.J.A.C. 6:28-1.4(a)4

The Board directs the identification, location, and evaluation of all children residing within the Board's jurisdiction who are educationally handicapped, regardless of the severity of their handicap, and who are in need of special education and related services. Procedures will be instituted for the identification of such children with the participation of professional staff members, parents, and agencies concerned with the welfare of pupils. Unless it can be documented that the pupil's handicap requires direct referral to the child study team, prereferral intervention will be instituted to alleviate the pupil's educational problems.

Pupils identified as being potentially educationally handicapped and considered to require services beyond those available within the regular program of the district will be referred, by written request, to the child study team for evaluation. Referrals for examination may be made by any teaching staff member, the parent of a child referred, a public or private agency recognized by this district and concerned with the welfare of children, or by a licensed medical or health professional. The parent of a pupil considered for initial evaluation will receive written notification of procedural safeguards and will be requested to consent to the evaluation. An initial evaluation will proceed only when the parent has given consent or, in the event the parent withholds consent, the Office of Administrative Law has ordered initial evaluation.

The child study team shall determine each referred pupil's need for comprehensive evaluation and design and implement an evaluation plan.

Parents and adult pupils shall be informed of their right to an independent evaluation in accordance with N.J.A.C. 6:28-5(b)1-3, (c), and (d).

Full educational opportunity N.J.A.C. 6:28-1.4(a)5

All educationally handicapped pupils, from birth through the age of twenty-one years, shall have available to them the variety of educational programs and services available to pupils who are not educationally handicapped.

No pupil classified as handicapped will be denied, because of his or her handicap, participation in co-curricular, intra-mural, or interscholastic activities or any of the services offered or recognitions rendered regularly to the pupils of this district.

Participation of parents N.J.A.C. 6:28-1.4(a)6

The parents of educationally handicapped pupils shall be provided every opportunity afforded by law and rules of the State Board of Education to participate in the decisions and actions affecting their children and to consult with the professional staff members who shape and implement their children's education.

All communication with parents shall be in the language used for communication by the parents unless it is not feasible to do so. As necessary and feasible, parents shall be provided with foreign language interpreters or translators and sign language interpreters, at no cost to the parent.

Special services N.J.A.C. 6:28-1.4(a)7

An educationally handicapped pupil's IEP will include such special services as may be indicated and necessary to enable him or her to participate in regular educational programs to the maximum extent appropriate.

Individualized education program N.J.A.C. 6:28-1.4(a)8

An individualized education program (IEP), consisting of a basic plan and an instructional guide, will be prepared for every pupil determined to be educationally handicapped. Each such pupil will be provided with a special education program and/or related services as defined in his or her IEP and implemented in facilities approved by the State and accessible to the handicapped.

Each IEP will include as a minimum the components listed at N.J.A.C. 6:28-3.6(e) and (i). The program and/or services specified in a pupil's IEP will be implemented in accordance with the district program plan and rules of the State Board of Education.

A copy of the IEP will be given to the child's parent. The IEP will be reviewed and revised at least annually. Meetings will be conducted to develop, review, and revise each IEP.

Protection of pupils' rights in evaluation N.J.A.C. 6:28-1.4(a)9

The evaluation procedure, including all observation, tests, and interviews, will be conducted in strict accordance with N.J.A.C. 6:28-2.5(a)1-10. The procedure will be selected and administered in such a way as to take into consideration the pupil's cultural background, language abilities, and any sensory, manual, or communication impairments that may interfere with measurements; be neither racially nor culturally discriminatory; be conducted on an individual basis and use group tests information only to supplement individual evaluations; consider the pupil's sociocultural background and adaptive behavior in home, school, and community; and result in a written report dated and signed by the person who originated the data. Within ninety calendar days of the date on which parental consent is received, the pupil will be evaluated, his or her eligibility for special education and/or related services will be determined, and, if he or she is eligible, the basic plan section of the pupil's individualized education program will be implemented. Within that time period, no more than thirty days will elapse between the development and implementation of the basic plan section of the individualized education program.

Each child determined to be educationally handicapped will be reevaluated at intervals of not more than three years and as frequently as conditions warrant on the request of the parent or district personnel responsible for the pupil's care. The child study team shall design a reevaluation plan; the parent will be notified of the plan. No change in classification will be made without written documentation.

When an evaluation is completed, the child study team and the parent, and, if they wish to attend, the school principal and the referring staff member, shall meet to develop a collaborative evaluation summary, determine the pupil's eligibility, and, if the pupil is eligible for a program of special education, determine his or her classification category.

Parents and adult pupils shall be provided with notice in accordance with N.J.A.C. 6:28-2.3(f) and shall have the right to an independent evaluation in accordance with N.J.A.C. 6:28-2.5(b)1-3, (c), (d).

Least restrictive environment N.J.A.C. 6:28-1.4(a)10

An educationally handicapped pupil's IEP will provide for the least restrictive environment. A pupil may be removed from the regular educational environment only when the nature of his or her handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily and, to the maximum extent possible, will be educated with children who are not educationally handicapped. A continuum of alternative placements will be available for educationally handicapped pupils.

Procedural safeguards N.J.A.C. 6:28-1.4(a)11

The Board will observe strictly the due process rights guaranteed by law to educationally handicapped or potentially educationally handicapped pupils and their parents. Each such parent and adult pupil will receive notice and opportunities for consultation and review in accordance with rules of the State Board of Education. Wherever feasible, communication with the parent will be in his or her native language. Copies of the New Jersey statutes and rules governing special education, pupil records, and appeal procedures will be offered to the parent of an educationally handicapped or potentially handicapped child and to the adult educationally handicapped pupil on his or her eighteenth birthday.

The Board directs that all reasonable attempts be made to mediate disputes by means of administrative review within the district before resort is made to the Department of Education for mediation or to the Office of Administrative Law for a due process hearing, but that no party be discouraged from pursuing relief along any avenue provided by law. The Board, the parent of a pupil aged three through twenty-one, or an adult pupil may initiate a due process hearing in accordance with N.J.A.C. 6:28-2.7 and N.J.A.C. 1:6A. The Board shall provide information regarding the availability of free or low cost legal and other relevant services, if the parent or adult pupil requests the information.

No change will be made to a pupil's classification, program, or placement pending the outcome of a conflict resolution effort unless both parties agree or emergency relief is granted by the Office of Administrative Law.

The Board directs the selection and training of surrogate parents to insure the rights of pupils whose parents cannot be identified or located or who are wards of the State of New Jersey.

Educationally handicapped pupils will be subject to the disciplinary policies and procedures established by this Board, except that a pupil whose IEP contains exemptions to those policies and procedures shall be disciplined in accordance with his or her IEP. The child study team must conduct a reevaluation prior to the effectuation of any discipline that would result in a significant change in the pupil's placement. No educationally handicapped pupil may be disciplined if the pupil's behavior is primarily caused by his or her educational handicap. The Board will not consider the expulsion of an educationally handicapped pupil until the child study team has reevaluated the pupil and the Board has received the child study team's written report of that reevaluation.

Evaluation

The Board shall annually evaluate the effectiveness of the special education program by reference to numbers of pupils referred and determined to be educationally handicapped, assessments of professional staff members, and such other measures as the Superintendent may recommend.

The Superintendent shall develop regulations to implement this policy that comply fully with all applicable federal and state statutes and rules of the United States Department of Education and the State Board of Education. The Superintendent shall maintain documentation of the implementation of this policy sufficient to assure compliance with law and regulations.

20 U.S.C.A. 1401 et seq.

34 C.F.R. Part 300

N.J.S.A. 9:14A-1

N.J.S.A. 18A:46-1 et seq.

N.J.A.C. 1:6A-1.1 et seq.

N.J.A.C. 6:3-2; 6:8-4.3(a)7iii, 6:28-1.1 et seq.

N.J.A.C. 6:43-4.1 et seq. [vo-tech only]

Date Adopted: 4/4/77

Date Revised: 5/21/80, 11/22/82, 10/28/85, 8/27/90

Regulations

No. 2100 (2460)

Board of Education

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The Superintendent directs the implementation of statute, rules of the State Board of Education, and Policy No. 210 (2460) regarding programs and services for educationally handicapped children in accordance with the following regulations:

A. Identification

1. Pupils in need of special education and/or related services may be identified by the parent of the pupil, a teaching staff member, a licensed medical or health professional, or by an agency recognized by this district and concerned with the welfare of children, including the Division of Youth and Family Services.
N.J.A.C. 6:28-3.3
2. The district shall attempt to locate educationally handicapped pupils resident in this school district who are eligible for special education programs and/or related services. NJAC 6:28-3.2
 - a. Written materials will be prepared to instruct parents in the nature of educational handicaps, the importance of early diagnosis and intervention, the availability of services and programs through the school district, and the means by which a referral may be made. A referral form will be included. Such materials will be prepared and will be sent to parents by mail and distributed to appropriate community organizations, physicians, health organizations, and agencies serving children.
 - b. Teaching staff members shall be instructed in the criteria that may identify pupils who are experiencing physical, sensory, emotional, communication, cognitive, or social difficulties.
N.J.A.C. 6:28-3.2(b)
3. Before an identified pupil is referred for determination of eligibility for special education, reasonable attempts will be made to alleviate his or her educational problems by intervention in the regular school program, unless the pupil's problem is such that direct referral to the child study team can be supported and

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documented. The effect of such prereferral intervention shall be documented in writing by staff members in the regular program. The parent will be informed of the interventions attempted and offered a copy of the documentation. Prereferral intervention is not required for a pupil whose educational problem is such that direct referral to the child study team can be supported and documented. N.J.A.C. 6:28-3.3(a)

B. Referral and screening

1. Pupils identified as being potentially educationally handicapped and considered to require services beyond those available within the regular school program shall be referred by written request to the child study team for evaluation procedures. N.J.A.C. 6:28-3.3(b)
2. A child who has received services in an early intervention program approved by the Department of Education and is age eligible for special education and/or related services pursuant to N.J.A.C. 6:28-1.3 and 1D2c shall be considered to be identified and shall be referred for screening and possible evaluation.
3. Upon the submission of a completed referral form signed by the parent of a preschool child and within thirty calendar days of the date on which the request is received, the child will be screened for a preliminary determination of whether the child should be referred to the child study team for comprehensive evaluation. Screening will include, as a minimum, an observation of the child and will be completed within thirty days of the parent's request. N.J.A.C. 6:28-3.3(f)
4. Audiometric screening and vision screening shall be conducted for every pupil referred to the child study team. N.J.A.C. 6:28-3.3(d) and (e); 6:29-5.1

C. Evaluation

1. Evaluation by the child study team will be conducted promptly and without undue delay and in accordance with validated procedures developed by a multidisciplinary team of appropriately certified and trained professionals, at least one of whom is knowledgeable in the area of the suspected disability. The procedures will

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- a. Be selected, administered, and interpreted in such a way as to be racially and culturally nondiscriminatory but shall take into consideration the pupil's cultural background and adaptive behaviors, language abilities, and any sensory, manual, or communication impairments that may interfere with measurements;
 - b. Be conducted on an individual basis and in the pupil's native language or other mode of communication unless it is not feasible to do so;
 - c. Use information from group tests only to supplement individual evaluations; and
 - d. Result in a written report that is dated and signed by the individual who originated the data.
N.J.A.C. 6:28-2.5(a)
2. After notice of the referral has been provided, the child study team shall meet to determine the pupil's need for initial evaluation. If it is decided that an evaluation is needed, the child study team shall determine the pupil's communication skills, English language proficiency, and native language and shall write an evaluation plan. The evaluation plan shall include the specific information to be obtained, the evaluation procedures necessary to obtain that information, the language or method of communication to be used in the evaluation process, and the designation of a child study team member as case manager. N.J.A.C. 6:28-3.4(a)
3. The requirements for evaluation by the child study team do not apply to
 - a. A pupil confined at home or to a hospital by a physician sixty days or less in a school year or
 - b. A pupil with a speech or language problem when the nature of that problem does not warrant a comprehensive evaluation by a child study team.
N.J.A.C. 6:28-3.4(g)

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4. Parental consent shall be obtained prior to the conduct of an initial evaluation. N.J.A.C. 6:28-2.3(a)
5. An initial evaluation shall consist of the following:
 - a. A comprehensive health appraisal performed by a physican employed by the Board of Education, or by the parent's private physician who must report his or her appraisal on a form developed by the school physician, and augmented by additional health information supplied by the school nurse. N.J.A.C. 6:28-3.4(d)1
 - b. A psychological assessment, developed by a school psychologist, that includes teacher conferences and informal observations of the pupil as well as an appraisal of the pupil's cognitive, social, adaptive, and emotional status. N.J.A.C. 6:28-3.4(d)2
 - c. An educational assessment prepared by a learning disabilities teacher-consultant that includes informal observation of the pupil, review of the pupil's educational history, teacher conferences, and an evaluation and analysis of the pupil's academic performance and learning characteristics. N.J.A.C. 6:28-3.4(d)3
 - d. A social assessment prepared by a school social worker that includes communication with the pupil and parent, an evaluation of the pupil's adaptive social functioning and emotional development, and an evaluation of the family, social, and cultural factors that influence the pupil's learning and behavior in the educational setting. N.J.A.C. 6:28-3.4(d)4
 - e. For children ages three to five, a speech and language assessment, conducted by the speech correctionist or speech language specialist, that includes observation of the pupil, communication with the parent, and evaluation and analysis of speech and language developments. N.J.A.C. 6:28-3.4(d)5

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- f. Pertinent information, if any, supplied by the pupil's parent and teaching staff members.
N.J.A.C. 6:28-3.4(e)
- g. The evaluation, if any, by specialists required for the determination of the classification of a pupil who is, solely or in combination with other handicaps,
- (1) Auditorily handicapped (audiologist, speech correctionist or speech language specialist),
 - (2) Autistic (certified speech correctionist or speech-language specialist and physician trained in neurodevelopmental assessment),
 - (3) Chronically ill (school medical inspector, school nurse),
 - (4) Communication handicapped (speech correctionist or speech language specialist),
 - (5) Emotionally disturbed (psychiatrist experienced in working with children),
 - (6) Mentally retarded,
 - (7) Multiply handicapped (specialist appropriate to each handicap),
 - (8) Neurologically or perceptually impaired (physician trained in neurodevelopmental assessment for the neurologically impaired),
 - (9) Orthopedically handicapped (physician qualified to conduct an orthopedic examination),
 - (10) Preschool handicapped,
 - (11) Socially maladjusted (psychiatrist experienced in working with children), or
 - (12) Visually handicapped (specialist qualified to determine visual disability). N.J.A.C. 6:28-3.4(f), 6:28-3.5(c)

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6. If a child study team member accepts the report and evaluation of the pupil prepared by other New Jersey public school child study team members, a clinic or agency approved by the Department of Education, or a professional in private practice, such acceptance shall be noted in writing and become part of the report of that child study team member. If any such report or evaluation is rejected, a written rationale for its rejection shall be provided. N.J.A.C. 6:28-3.4(h)
7. The status of each pupil determined to be educationally handicapped shall be reevaluated within three years of the date of the previous classification and more frequently if conditions warrant or when the pupil's parent or teacher so requests or when a change in classification or significant change in program is being considered. Reevaluations will be conducted in accordance with N.J.A.C. 6:28-3.7.
 - a. The child study team shall determine which staff members will conduct the evaluations.
 - b. Evaluations shall be conducted in accordance with N.J.A.C. 6:28-3.4 and shall be based on the pupil's demonstrated progress in meeting the goals of his or her IEP and will include assessments by at least two members of the child study team and, for auditorily handicapped pupils, an audiological evaluation and a speech language assessment.
 - c. The child study team shall design an evaluation plan and notify the parent of that plan.
 - d. When the reevaluation is completed, the child study team members who have participated in the reevaluation will conduct a meeting to determine eligibility and, if the pupil remains eligible, develop the basic plan of the pupil's IEP.
N.J.A.C. 6:28-3.7(a)5

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1. An evaluated pupil's eligibility for special education and/or related services will be determined at a meeting of the child study team, the parent, and, if they wish to participate, the school principal and referring staff member. N.J.A.C. 6:28-3.5(a) Participants in the meeting shall
 - a. Determine whether the pupil is eligible for special education and/or related services and
 - b. Determine collaboratively the pupil's single classification category as defined at N.J.A.C. 6:28-3.5(c).
 - (1) A pupil whose assessment data suggest a multiple handicapping condition but do not meet the criteria for multiply handicapped will be assigned the classification category that best describes his or her educational status and needs and will be prescribed an IEP that addresses the additional conditions and needs. N.J.A.C. 6:28-3.5(a)2i
 - (2) An eligible pupil aged three through five will be assigned the classification of preschool handicapped. N.J.A.C. 6:28-3.5(a)2ii
2. A child is eligible for the preschool handicapped program if he or she
 - a. Is determined to have a handicapping condition and/or a measurable developmental impairment;
 - b. Requires or would benefit from special education and/or related services, N.J.A.C. 6:28-3.5(c)8; and
 - c. Is three years of age.
N.J.A.C. 6:28-1.3

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3. A child admitted to the preschool handicapped program will remain in that program until he or she is eligible by age for admission to kindergarten.
4. A child whose fifth birthday occurs on or before October 1st (cutoff date for admission to kindergarten) of the school year in which admission is sought, N.J.A.C. 6:28-1.3, is eligible for evaluation, classification, and placement in a special education program in the regular school program.
5. An educationally handicapped pupil is eligible for special education and/or related services until he or she is determined by the child study team no longer to require such services, receives a high school diploma, N.J.A.C. 6:28-4.8, is duly expelled from school, N.J.A.C. 6:28-2.8, or until the end of the school year in which his or her twenty-first birthday occurs. N.J.A.C. 6:28-1.3
6. An educationally handicapped pupil between the ages of sixteen and twenty-one who leaves the district voluntarily and before receiving a high school diploma may reenroll at any time up to and including the school year in which his or her twenty-first birthday occurs. N.J.A.C. 6:28-2.1(b)

E. Individualized education program (IEP)

1. The IEP prepared for an educationally handicapped pupil will consist of a basic plan and an instructional guide. N.J.A.C. 6:28-3.6(a)
2. The basic plan will be written upon completion of the child study team's evaluation, within thirty days of the determination that the pupil is eligible for special education and/or related services and prior to the pupil's placement in a special education program. N.J.A.C. 6:28-2.1(c)1, 6:28-3.6(b)

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- a. The basic plan will be developed with the participation of the parent, child study team members who have participated in the evaluation, a teacher or teachers having knowledge of the pupil's educational performance, the pupil where appropriate, the referring teaching staff member, the principal or his or her designee, and other appropriate individuals who choose to participate. In the case of pupils eligible for day training, a curriculum consultant from the Department of Human Services shall also participate. N.J.A.C. 6:28-2.3(h), 6:28-3.6(c)
- b. The plan will include the determination of eligibility; the pupil's current educational status pursuant to N.J.A.C. 6:28-3.6(e)2; annual goals and intermediate objectives; and a detailed description of the pupil's program that includes
 - (1) A rationale for the pupil's educational program;
 - (2) An explanation of why the program and placement are the least restrictive environment;
 - (3) A description of the extent to which the pupil will participate in the regular school program with such precautions prescribed as may be necessary to protect the pupil;
 - (4) A description of the exemptions from the regular education program options, testing programs, core course proficiencies, and/or graduation requirements, along with a rationale for each;
 - (5) If the IEP goals and objectives do not include proficiencies recommended by the HSPT and the requirement to demonstrate mastery of curriculum proficiencies, the reasons therefor;
 - (6) A statement of the alternate requirement for each exemption for state and local high school graduation requirements;

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- (7) For a pupil aged fourteen or over, goals and objectives that describe one or more of the following post-secondary areas: educational programs, vocational programs, work settings, and independent living, N.J.A.C. 6:28-4.7(b);
 - (8) A statement of and rationale for the length of time the pupil will be in the special education program, including length of school day and year;
 - (9) A description of the special education and/or related services, including frequency and duration and the date on which they will begin;
 - (10) Any exemptions from the district's disciplinary policies and procedures; and
 - (11) The roles and responsibilities of school personnel in implementing the IEP and the criteria, procedure, and schedule to determine whether the pupil's goals and objectives are being met. N.J.A.C. 6:28-3.6(e)
3. The IEP of a child identified as preschool handicapped at least ninety days prior to date on which the child attains the age of three [1D2c] shall be completed not later than the date on which the child attains the age of three. The IEP of a child identified as preschool handicapped less than ninety days prior to the date on which the child attains the age of three shall be developed within ninety days, in accordance with N.J.A.C. 6:28-2.1(c). N.J.A.C. 6:28-3.2(d) and (e).
 4. The case manager will coordinate the development of an instructional guide based on the basic plan and which includes the components set forth at N.J.A.C. 6:28-3.6(i). The guide will be developed by the teacher or teachers responsible for implementing the pupil's program with the assistance of a member of the basic child study team and shall be completed within twenty calendar days after the basic plan has been implemented. The parent of the pupil may participate in the development of the instructional guide. N.J.A.C. 6:28-3.6(f), (g), (h), (i)

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5. The IEP meeting of a pupil classified as eligible for speech language services will be attended by the parent, the speech correctionist or speech language specialist, and, if appropriate, the pupil and other appropriate teaching staff members. N.J.A.C. 6:28-3.6(d)
6. When an educationally handicapped pupil has been determined by the school medical inspector to be in need of home instruction, a meeting shall be conducted to review and revise the pupil's IEP in accordance with N.J.A.C. 28-3.6(j). N.J.A.C. 6:28-3.6(d)3
7. Documentation will be maintained of those who participated in the development of the IEP and a copy of the IEP shall be provided to the parent. The IEP will be in the parent's native language, unless this requirement would place an unreasonable burden on the district. Efforts shall be made to insure that the parent understands the IEP. N.J.A.C. 6:28-3.6(k)
8. The child study team shall be responsible for the coordination, monitoring, and evaluation of the IEP.
9. Annually or more often if necessary the case manager, parent, teacher, and, if appropriate, the pupil and other individuals at the discretion of the parent and the Board shall meet to review and revise the IEP and determine the pupil's placement. N.J.A.C. 6:28-3.6(j)
10. When a parent declines to participate in an IEP meeting or disagrees with the recommendations, the remaining participants shall develop a written individualized educational program, but no special education program will be implemented without the parent's consent or a decision directing program implementation pursuant to a due process hearing. Parental consent is required only for initial implementation of a special education program. N.J.A.C. 6:28-3.6(l)
11. School personnel, adult pupils, and the parent(s) of an educationally handicapped pupil shall be allowed to use an audio-tape recorder during the IEP meetings. N.J.A.C. 6:28-3.6(n)

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1. Educationally handicapped pupils will be placed in facilities or programs approved by the Department of Education in accordance with N.J.S.A. 18A:46-14 and -15, N.J.A.C. 6:28-1.1(i) and in appropriate, barrier free facilities in accordance with N.J.A.C. 6:chapter 22. N.J.A.C. 6:28-1.1(d)3
2. Educationally handicapped pupils will be provided appropriate curriculum and materials. N.J.A.C. 6:28-4.1(d)
3. The length of the school day and academic year for educationally handicapped pupils will be not less than the day and year established for pupils in the regular program of the schools. N.J.A.C. 6:28-4.1(e)
4. The professional staff members serving educationally handicapped pupils shall hold certification appropriate to their assignments. Such teaching staff members may be assisted by aides. N.J.A.C. 6:28-4.1(f)
5. The special education program for educationally handicapped pupils will be implemented in accordance with the pupil's individualized educational program and in compliance with the program criteria set forth at N.J.A.C. 6:28-4.1 through 6:28-4.4.
6. Placement will be provided in the appropriate educational setting as close to the pupil's home as possible. N.J.A.C. 6:28-2.10(a)3
7. When appropriate, an educationally handicapped pupil will be grouped with or participate with pupils who are not educationally handicapped pupils or are less severely handicapped in activities that are part of the educational program. N.J.A.C. 6:28-2.10(a)1 When the IEP of a handicapped pupil does not prescribe any restrictions, the pupil will be included in the regular school program he or she would attend if not handicapped, including participation in health and physical education, industrial arts, fine arts, music, home economics, all other academic programs, interscholastic and intrascholastic sports, and co-curricular and extra-curricular activities. N.J.A.C. 6:28-2.10(a)5, 6:28-4.1(i)

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8. Physical education will be made available to every educationally handicapped pupil aged five through twenty-one, including pupils in separate facilities, and will be specially designed to meet pupils' needs. N.J.A.C. 6:28-4.1(g)
9. Programs for the preschool handicapped will be in operation five days per week, one day of which may be used for parent training and at least four days of which will provide a minimum total of ten hours of pupil instruction. N.J.A.C. 6:28-4.1(e)1
10. Related services will be provided in accordance with a handicapped pupil's IEP and may include but need not be limited to counseling services, occupational and physical therapy, recreation, speech correction for a pupil classified other than eligible for speech correction, and transportation. The transportation of preschool handicapped children will be in accordance with Policy No. 816 (8670). N.J.A.C. 6:28-3.8(a)
11. The hearing aids worn by deaf and/or hard of hearing children in school will be inspected and tested as frequently as necessary to insure that they are functioning properly. An improperly functioning hearing aid will be repaired or replaced as promptly as possible. N.J.A.C. 6:28-1.1(k)

G. Exemption from graduation requirements

1. The IEP of any educationally handicapped pupil must specify the attainments that will qualify the pupil for graduation. N.J.A.C. 6:28-3.6(e)5iv, v, vi
2. The case manager shall recommend the exemption from state and local graduation requirements of an educationally handicapped pupil
 - a. Whose IEP does not include the range of proficiencies measured by the HSPT and curriculum proficiencies or
 - b. Who would be adversely affected by taking the HSPT. N.J.A.C. 6:28-3.6(e)5

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3. The case manager shall submit an exemption recommendation in writing to the Superintendent along with a copy of the pupil's IEP and the rationale for the exemption.
4. The child study team shall report annually to the Superintendent no later than June 30th the number of pupils graduated under special education. N.J.A.C. 6:8-7.1(f)1
5. Educationally handicapped pupils shall be admitted to the special review assessment in the same manner as are pupils who are not educationally handicapped. N.J.A.C. 6:8-7.1(b)

H. Home instruction

1. Instruction will be provided in accordance with N.J.A.C. 6:28-4.5 to pupils certified as eligible for home instruction.
 - a. Home instruction will be provided to pupils determined by the school physician to need confinement at their residence for a period of at least two weeks duration.
 - (1) Instruction shall be provided in not less than five hours per week in no fewer than three visits on three days, not including any direct communication with the classroom by telephone, television, or computer.
 - (2) Home instruction may be provided for a maximum of sixty calendar days in a school year; if instruction for a longer period is indicated, the pupil should be referred for a determination of his or her eligibility for special education and/or related services. N.J.A.C. 6:28-4.5(a)
 - b. The IEP of an educationally handicapped pupil may be implemented by one to one instruction at home or in another appropriate setting when it can be documented that no other program option is appropriate at that time, provided prior written approval for such instruction for a maximum of sixty calendar days has been obtained from the Department of Education through the county office. Requests may be made for renewals of the period of home instruction, each not to exceed sixty days.

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- (1) Instruction shall be provided for not less than ten hours per week in no fewer than three visits on three days. N.J.A.C. 6:28-4.2(a)8, 6:28-4.5(b)
- c. Instruction shall be provided to pupils confined to a hospital, convalescent home, or other medical institution for a period of at least two weeks and determined by the school physician to need home instruction or classified by the child study team as educationally handicapped.
 - (1) Instruction will be provided at the pupil's place of confinement.
 - (2) Instruction will be provided to a single pupil for a minimum of five hours per week in no fewer than three visits on three days and to classes of pupils, to the limits established at N.J.A.C. 6:28-4.4(a)6, for a total number of hours equal to the product of the number of pupils times 5; any instruction by direct telephone, televised, or computer communication with a classroom will be in addition to these minimum periods.
 - (3) Home instruction may be provided for a maximum of sixty calendar days in a school year; if instruction for a longer period is indicated, the pupil should be referred for a determination of his or her eligibility for special education and/or related services. N.J.A.C. 6:28-4.5(c)
2. Home instruction will be provided within seven calendar days after a pupil's eligibility has been established. N.J.A.C. 6:28-4.5(a)3
3. Pupils on home instruction will be carried on the individual home instruction register. N.J.A.C. 6:28-4.5(a)2
4. The home instructor must be appropriately certified as teacher of the handicapped or for the subject taught or level of instruction. N.J.A.C. 6:28-4.5(a)4

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5. The program of home instruction offered must meet district requirements for promotion and graduation, except that educationally handicapped pupils may be exempted by their IEP, in accordance with N.J.A.C. 6:28-3.6(e)5. N.J.A.C. 6:28-4.5(a)5

I. Discipline

1. Educationally handicapped pupils are subject to the same disciplinary policies and procedures as are pupils who are not handicapped, except that a pupil whose IEP includes exemptions to those policies and procedures will be disciplined in accordance with his or her IEP.
2. When an educationally handicapped pupil is suspended, the principal shall notify the parent in writing, at the time of the suspension, of the reasons for the action, with a copy to the case manager.
3. If an educationally handicapped pupil is suspended more than ten school days, consecutive or nonconsecutive, in one school year, the notification required at ¶12 will be sent prior to the suspension.
4. The child study team shall conduct a reevaluation, pursuant to N.J.A.C. 6:28-3.7, prior to the effectuation of any discipline that would result in a significant change in placement, that is, a proposed discipline that involves
 - a. Expulsion,
 - b. Suspension for an indefinite period or for more than ten consecutive school days, or
 - c. Suspensions aggregating more than ten school days in a school year that create a pattern of exclusion.
5. If the principal proposes to expell or to suspend an educationally handicapped pupil indefinitely or for more than ten consecutive days, the pupil shall be referred to the child study team for reevaluation.

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6. If the principal proposes to suspend an educationally handicapped pupil who has already been suspended ten nonconsecutive school days in the school year, the pupil's case manager shall review the pupil's suspensions to determine whether they create a pattern of exclusion that constitutes a significant change in placement. N.J.A.C. 6:28-2.8(b) The case manager shall document the review and determination made and, if he or she has determined that the suspensions constitute a significant change in placement, shall notify the principal that a reevaluation must be conducted prior to the proposed suspension.
7. On completion of a reevaluation conducted pursuant to §15 or 6, the child study team shall determine whether the pupil's behavior was caused by his or her educational handicap and, if so, whether the pupil's current educational placement is appropriate.
 - a. If the pupil's behavior is determined to be primarily caused by his or her educational handicap, the pupil may not be disciplined.
 - b. If it is determined that the pupil's behavior is not primarily caused by his or her educational handicap, the pupil may be disciplined but must continue to receive educational services. N.J.A.C. 6:28-2.8(d)
8. Copies of all written reviews and determinations made by the case manager and the child study team shall be given to the principal and the parent or adult pupil, along with a statement that mediation or a due process hearing may be requested pursuant to N.J.A.C. 6:28-2.6 or 2.7.
9. An educationally handicapped pupil may be temporarily suspended in a significant change in placement, if there is ongoing peril of physical harm to the pupil or to others or the likelihood of substantial disruption of the educational process. N.J.A.C. 6:28-2.8(f)

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1. Children who will attain the age of three pursuant to N.J.A.C. 6:28-1.3 [1D2c] and are identified to the district at least ninety days prior to the attainment of age three will, on receipt of parental consent, be evaluated and, if eligible, be provided with an IEP, not later than the date on which the child attains age three. A child who is identified less than ninety days prior to the attainment of age three will, on receipt of parental consent, be evaluated and, if eligible, provided with an IEP within ninety days. N.J.A.C. 6:28-1.3, 6:28-3.2(d) and (e)
2. By June 30 of a pupil's last year in a program for the preschool handicapped, the child study team shall reevaluate and, if appropriate, classify the pupil. N.J.A.C. 6:28-3.4(i), 6:3.6(j)1
3. The transition of an educationally handicapped pupil from an elementary program to a secondary program will be determined by factors including number of years in school; social, academic, and vocational development; and chronological age. By June 30 of a handicapped pupil's last year in an elementary program, the case manager, parent, teacher, and, if appropriate, the pupil shall meet to review and revise the pupil's IEP; input from the staff of the secondary school will be included. N.J.A.C. 6:28-3.6(j)2 The pupil's IEP will address high school graduation requirements in accordance with N.J.A.C. 6:28-3.6(e)5v and vi.
4. The transition of an educationally handicapped pupil to adulthood shall be planned, under the direction of the case manager, commencing at age fourteen. The pupil's initial evaluation or reevaluation shall include assessments to determine appropriate post-secondary outcomes, meetings will be attended by postsecondary resource professionals, and the pupil's IEP will include goals and objectives to prepare the pupil for postsecondary educational programs, vocational programs, work settings, or independent living. The IEP will also designate a liaison to post-secondary resources and make appropriate referrals to such resources. N.J.A.C. 6:28-4.7(b)

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5. During a twenty-one year old handicapped pupil's last year in this district, a meeting will be held including the parent, the case manager, the pupil, if appropriate, and other individuals as appropriate to develop nonbinding written recommendations concerning services and resources after the responsibility of this district has ended. N.J.A.C. 6:28-3.6(m)
6. A newly transferred pupil who has been classified as educationally handicapped by another New Jersey school district or defined as educationally handicapped by a state or local school district outside New Jersey will be immediately placed in a program consistent with the goals and objectives of his or her current individualized educational program. The child study team shall, within thirty days of the pupil's enrollment in this district, review the pupil's classification and IEP, and implement an appropriate program. N.J.A.C. 6:28-4.1(h)

K. Parental participation

The parent of an educationally handicapped or potentially educationally handicapped pupil or the adult educationally handicapped pupil

1. Must be given, without cost to the recipient, a copy of
 - a. On request, the special education statutes, N.J.S.A. 18A:chapter 46; special education rules, N.J.A.C. 6:chapter 28; pupil records rules, N.J.A.C. 6:3-2; and information regarding the availability of free and low cost legal or other services relevant to a due process hearing. N.J.A.C. 6:28-2.1(f), N.J.A.C. 1:chapter 6A
 - b. The procedural safeguards set forth at N.J.A.C. 6:28-2.1 et seq. and due process rules set forth at N.J.A.C. 1:chapter 6A when
 - (1) Parental consent for initial evaluation is requested or
 - (2) A parent identifies a child ages three to five as potentially preschool handicapped or
 - (3) A notice of reevaluation is sent to a parent. N.J.A.C. 6:28-2.1(d)

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- c. N.J.A.C. 6:chapter 28, when a pupil is determined to be eligible for special education and/or related services. N.J.A.C. 6:28-2.1(e)
2. Must be encouraged to participate in
- a. Evaluation procedures and to provide necessary information for the evaluation process, N.J.A.C. 6:28-3.4(c), 28-2.3(g)1
 - b. The meeting held to determine the child's eligibility for special education and related services, N.J.A.C. 6:28-3.5(a), 28-2.3(g)2
 - c. Development of the pupil's basic plan, N.J.A.C. 6:28-3.6(c), 28-2.3(h)3, at a meeting held at a mutually agreed upon time and place and to be consulted by telephone if a meeting is not possible. N.J.A.C. 6:28-2.3(g)3 and 4
 - d. Development of an instructional guide based on the pupil's basic plan, N.J.A.C. 6:28-3.6(g)
 - e. The review, annually or more often, of the pupil's individualized education program with professional staff members. N.J.A.C. 6:28-3.6(j), 28-2.3(g)4
3. Must be given written notice, wherever feasible in the language used for communication by the parent and pupil, N.J.A.C. 6:28-2.4(a), of the proposals and events listed below. Any notice supplied under this rule will be clearly written and will include descriptions of the action proposed or denied and the reasons therefor, the options considered and the reasons why those options were rejected, the procedures and factors used in the district's decision, and a copy of the procedural safeguards statement published by the New Jersey State Department of Education. N.J.A.C. 6:28-2.3(d) Except as may be provided below, notice will be given no later than fifteen calendar days after a decision is made or before a decision is implemented, unless the parent consents to accelerated action or a shorter notice period. N.J.A.C. 6:28-3.2(b) Notice of meetings must be given sufficiently early to insure that parents have an opportunity to attend. N.J.A.C. 6:28-2.3(h)2

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- a. A proposal to initiate or change the classification, evaluation, or educational placement of the pupil or the provision of a free appropriate education to the pupil. N.J.A.C. 6:28-2.3(c)1
 - b. A request for the parent's consent to initial evaluation or implementation of a special education program and/or related services. N.J.A.C. 6:28-2.3(a) and (c)
 - c. A meeting scheduled to determine a pupil's eligibility for special education and/or related services or to develop an IEP. Such notice will include a copy of the evaluation plan as well as the purpose, time, and location of the meeting and will list the other participants. N.J.A.C. 6:28-2.3(c)3, 28-3.4(a)
 - d. A plan to conduct a pupil's reevaluation. N.J.A.C. 6:28-2.3(c)3, 6:28-3.4(j)2
 - e. The approval or denial of the parent's written request to initiate or change the classification, evaluation, or educational placement of the pupil or the provision of a free public education to the pupil. N.J.A.C. 6:28-2.3(c)4
 - f. The district's response to any written parental request, within thirty calendar days of the receipt of the request. N.J.A.C. 6:28-2.3(e)
 - g. The pupil's disciplinary suspension, with reasons for that action. N.J.A.C. 6:28-2.8(c)
4. Must be supplied an interpreter at meetings if the native language is other than English or the parent is deaf. N.J.A.C. 6:28-2.4(a)1 The case manager is responsible for determining the parent's need, if any, for foreign language interpreters or translators or sign language interpreters.
 5. Must be provided a copy of the IEP in the parent's native language, N.J.A.C. 6:28-3.6(k), if translation is feasible. If it is not feasible to translate the IEP into another language or other mode of communication, the parent will be given an English language copy and an appropriate explanation of its contents in the language of the parent. N.J.A.C. 6:28-2.4(a)3

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6. Must be informed of any prereferral interventions attempted and given documentation of any such attempted interventions. N.J.A.C. 6:28-3.3(a)
7. Must be allowed to consent in writing to referral for evaluation and to implementation of the IEP. N.J.A.C. 6:28-3.3(b)
8. Must be afforded all due process protections of notice and appeal set forth at N.J.A.C. 6:28-2.3 and 2.7.
9. Must be permitted to inspect, review, and appeal the contents of the pupil's records. N.J.A.C. 6:3-2.7, 3-2.8(c), 6:28-2.9
10. If the parent disagrees with the district's evaluation, must be permitted to request an independent child study team evaluation and, on the receipt of such a request, be provided with information about where independent evaluations may be obtained. If requested and the district has not obtained a determination pursuant to a due process hearing that its evaluation is appropriate, the district will provide an independent evaluation at no cost to the parent. N.J.A.C. 6:28-2.5(b) and (c)
11. Must be provided, on the parent's request, with information regarding free or low cost legal and other relevant services. N.J.A.C. 6:28-2.1(f)

L. Mediation

1. Whenever a conflict arises from the application of Board policy or these regulations, either or both of the parties to the conflict may invoke an administrative review of the conflict by submitting a written request for review to the Superintendent, the Child Study Supervisor of the county office, or the Director of the Division of Special Education in the Department of Education. N.J.A.C. 6:28-2.6 et seq.; N.J.A.C. 1:6A
2. Administrative review is not a prerequisite to a formal hearing, however, and if either party declines to participate in the informal review, a request for a formal due process hearing may be filed in accordance with N.J.A.C. 6:28-2.7.

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3. Mediation invoked by request to the Superintendent will be conducted in accordance with the following procedures.
 - a. The request for mediation will be in writing and will set forth the issues in dispute and the relief sought by the requesting party. A copy of the request shall be given to the other party or parties to the conflict.
 - b. Within twenty calendar days after the Superintendent receives a request for mediation, a mediation conference will be conducted at a time and place reasonably convenient to the parties in the dispute. Written notice of the conference will be given to the parties reasonably in advance of the conference date.
 - c. The conference will be attended by the parties in dispute and the Superintendent or a person appointed by the Superintendent and acting with the Superintendent's authority. Either party may be accompanied and advised at mediation by legal counsel or other person with special knowledge or training of the educationally handicapped pupil's needs. A parent whose native language is other than English or who is deaf will be provided with an interpreter. A parent will be permitted the use of a tape recorder at the conference.
 - d. The conference will be conducted by a mediator appointed by the Superintendent. The conference will be conducted informally, and the role of the mediator will be that of a facilitator, not judge.
 - e. The purpose of the conference will be to determine issues, explore options, and attempt to reach agreement within the confines of law. Each party will be afforded the opportunity to explain his or her position and to present documentation that supports that position. Every reasonable effort will be made to resolve the dispute in the pupil's best interests.
 - f. The mediator may terminate mediation at any time after the first conference if in his or her judgment the parties are not making progress toward resolving the issues in dispute.

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- g. If mediation results in agreement, the conclusions will be incorporated into a written agreement signed by each party. A copy of the agreement will be given to each party and a copy will be retained by the mediator.
 - h. If mediation does not result in agreement, the mediator shall document the date(s) and the participants at the conference(s). No other record of the mediation will be made or kept.
- 4. District administrators shall cooperate with a parent who seeks mediation by the Department of Education through its county office and/or the Division of Special Education in order to resolve a conflict. N.J.A.C. 6:28-2.6(a)
- 5. The Board will, if the best interests of the pupil so dictate, direct a request for a due process hearing to the Director of the Division of Special Education or, if the pupil is below the age of three or over the age of twenty-one, file an appeal to the Commissioner of Education when
 - a. A parent fails or refuses to consent to the referral of a pupil for evaluation or to the initial implementation of a pupil's IEP, N.J.A.C. 6:28-2.7(b), 28-3.3(b)1, 28-3.6(1), or
 - b. The Board denies a parent's request for independent evaluation, N.J.A.C. 6:28-2.7(b).
- 6. The parent may request a due process hearing after receiving the Board's written notice of a proposed or denied action or after thirty calendar days have elapsed from the date of the parent's written request for a change with regard to the pupil. N.J.A.C. 6:28-2.7(b)
- 7. No change will be made to an educationally handicapped pupil's classification, program, or placement pending the outcome of mediation except as ordered by way of emergency relief by the Office of Administrative Law. N.J.A.C. 6:28-2.6(b)7
- 8. If the conflict involves the pupil's initial admission to public school, the child, with the consent of the parent, will be placed in the public school program or a placement agreed to by the parent and Board pending the outcome of the hearing. N.J.A.C. 6:28-2.1(g)

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9. Any decision duly rendered by the Office of Administrative Law that has not been appealed will be implemented in accordance with the decision. N.J.A.C. 1:6A All hearing decisions of OAL which are not appealed shall be implemented.

M. Surrogate parents

1. In the event that a pupil's parent cannot be indentified or cannot be located after reasonable efforts or a pupil is a ward of the State of New Jersey, the Superintendent will appoint an individual to act as surrogate for the parent under these rules. The surrogate parent may consent or withhold consent to the pupil's referral and to the implementation of the IEP and must act at all times in the pupil's best interest. N.J.A.C. 6:28-2.2
2. A surrogate parent will not be an employee of the Board or of the Department of Education, N.J.A.C. 6:28-2.2(d), or have any interest that will conflict or appear to conflict with the pupil he or she represents. N.J.A.C. 6:28-2.2(c)1 and (d)
3. A surrogate parent will be chosen from a panel of volunteers who possess the knowledge and skills that insure adequate representation of the pupil. Each volunteer for service will be interviewed and must supply references and a resume.
4. Surrogate parents will be prepared for service by a training program administered by the Nutley Board of Education.
5. Surrogate parents will be paid for each conference attended as an appointed representative of a pupil. N.J.A.C. 6:28-2.2(d)

N. Avoidance of needless public labeling

1. At no time in the conduct of a Board meeting, public hearing, or any other public occasion under the jurisdiction of the Board shall the Board permit the disclosure of the name or other data allowing the identification of a pupil as an educationally handicapped pupil, unless the parent or adult pupil expressly permits such disclosure.

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2. Any reference to a pupil as an educationally handicapped pupil in the minutes of Board meetings or in any other public document of this district shall be by code. The Board Secretary shall maintain a file of the pupils identified by code; that file shall not be a public record. N.J.A.C. 6:28-2.9
3. The release of information regarding educationally handicapped pupils to the news media shall be conducted in accordance with Policy No. 901 (9120) and shall rigorously protect the privacy of pupils.

0. Provision of facilities, personnel, and services

1. Appropriate facilities, personnel, and services will be made available to meet the Board's goal of providing full educational opportunities, as set forth in rules of the State Board of Education, for all children in this district from birth to the age of twenty-one or the child's transfer from this district.
2. A comprehensive system of personnel development will be implemented that includes
 - a. In-service training of general and special educational instructional and support personnel,
 - b. Assurances that all personnel necessary to implement the special education program of this district are appropriately and adequately prepared and trained, and
 - c. The acquisition and distribution of information derived from educational research, demonstration, and similar projects to teaching staff members involved in programs of special education. 20 U.S.C. 1413(a)(3)(A)

Date Adopted: