

Regulations

Schedule I
2100 (2460 R)

Board of Education

Nutley

R 2460 SPECIAL SERVICES

The following is a list of special education regulations:

- R 2460.2 Full Educational Opportunity
- R 2460.3 Location, Identification and Referral
- R 2460.4 Individualized Education Program (IEP),
Reevaluation and Related Services
- R 2460.5 Least Restrictive Environment
- R 2460.6 Procedural Safeguards
- R 2460.7 Evaluation Procedures
- R 2460.8 Pupil Records
- R 2460.9 Personnel

The following definitions shall apply to all special education regulation:

Definitions

Words and terms, unless otherwise defined below, when used in this chapter, shall be defined in the same manner as those words and terms used in the Individuals with Disabilities Education Act (IDEA).

"Adaptive behavior" means the ability to demonstrate personal independence and social responsibility according to age and socio-cultural group expectations.

"Adult pupil" means an emancipated minor or a person age eighteen through twenty-one, who is or was enrolled in the public school and who is not under legal guardianship.

"Approved private school for the disabled" corresponds to approved private school for the handicapped" and means an incorporated entity approved by the New Jersey Department of

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Education according to N.J.A.C. 6A: 14-7.2 or 7.3 to provide special education and related services to pupils with disabilities for providing their education.

"Assistive technology device" 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 children with disabilities.

"Assistive technology service" means any service that directly assists a pupil with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

1. The evaluation of the needs of a pupil with a disability, including a functional evaluation of the pupil in his or her customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by pupils with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers or other individuals who may provide services to, employ, or otherwise substantially involved in the major life functions or pupils with disabilities.

"Board of Education" means the school district of residence, the Board of Trustees of the charter school, the State agency or other

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Public education agency which acts as the school district of residence for the location, identification, evaluation, determination of eligibility, development of an Individualized Education Program and the provision of a free appropriate, public education to pupils with disabilities except as defined otherwise.

"Consent" means agreement in writing which is required by this chapter. Consent shall be obtained from the parent (s), legal guardian (s) and/or the adult pupil having legal responsibility for educational decision making. The district Board of Education shall ensure that the parent (s), legal guardian (s) and/or adult pupil:

1. Has been fully informed of all information relevant to the activity for which consent is being sought, in his or her native language or other mode of communication;
2. Understands and agrees in writing to the implementation of the activity; and
3. Understands that the granting of consent is voluntary and may be revoked at any time.

"Department of Education" means the New Jersey State Board of Education, the Commissioner of Education or his or her designee.

"Individualized Education Program (IEP) means a written plan developed at a meeting according to N.J.A.C. 6A:14-2.3(h)2 which sets forth present levels of performance, measurable annual goals and short-term objectives or benchmarks and describes an integrated, sequential program of individually designed instructional activities and related services necessary to achieve the stated goals and objectives. This plan shall establish the rationale for the pupil's educational placement, serve as the basis for program implementation and comply with the mandates set forth in this chapter.

"IEP Team" means the group of individuals who are responsible for the development, review and revision of the pupil's Individualized Education Program.

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The members of the IEP Team are listed at N.J.A.C. 6A:14-2.3 (h).

"Native language" means the language or mode of communication normally used by a person with a limited ability to speak or understand the English language.

"Nonpublic school pupil" means any pupil who is enrolled full time in a nonpublic school. A pupil who boards at a nonpublic school shall be considered a resident of the New Jersey school district in which the parent (s), legal guardian (s) and/or the adult pupil resides.

"Parent" means the natural parent, the legal guardian, foster parent, surrogate parent, acting in the place of a parent such as the person with whom the pupil legally resides and/or a person legally responsible for the pupil's welfare. Unless parental rights have been terminated by a court of appropriate jurisdiction, the natural parent retains all rights under this chapter.

"Pupil" means a person age three through twenty-one who is entitled to receive educational programs and services in accordance with Federal and State law or regulation.

"Pupil age" means the school age of a pupil defined by the following:

- 1 "Age three" means the attainment of the third birthday. Children attaining age three shall have a free appropriate public education available to them provided by the district Board of Education.
2. "Age five" means the attainment of age five by the month and day established as the kindergarten entrance cutoff date by the district Board of Education. Pupils with disabilities attaining age five after the kindergarten entrance cutoff date shall continue to be provided preschool services for the balance of that school year.
3. "Age 21" means the attainment of the twenty-first birthday by June 30 of that school year provided services for the balance of that school year.

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vocational school, the primary program responsibility shall be with the sending school district;

- b. In vocational shop and related academic programs, class size shall be in accordance with N.J.A.C. 6A:14-4.7(e)2i.

- 6. Secondary level pupils with disabilities may be placed in community rehabilitation services in accordance with the following:

- a. Community rehabilitation programs shall be approved in accordance with N.J.A.C. 12:51-11 by the New Jersey Department of Labor, Division of Vocational Rehabilitation Services to provide vocational evaluation, work adjustment training, job coaching, skill training, supported employment and time-limited job coaching;
- b. Placement shall be made in accordance with the pupil's IEP, which shall specify the core curriculum content standards to be met and shall address how instruction shall be provided; and
- c. Within ten calendar days placement in community rehabilitation facilities, the school district shall provide written notification of the placement to the County Office of Education.

G. Program Criteria: Home Instruction

The IEP of pupil classified as disabled may be implemented through one to one instruction at home or in another appropriate setting when it can be documented that all other less restrictive program options have been considered and have been determined inappropriate.

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1. Prior written approval to provide home instruction must be obtained from the New Jersey Department of Education through the County Office of Education for a maximum of sixty calendar days. Request may be made for renewals of the period of home instruction, each not to exceed sixty calendar days.
2. Instruction shall be provided for no fewer than ten hours per week in no fewer than three visits by certified teacher on at least three separate days.
3. N.J.A.C. 6A:14-4.9 (a) 2, 3, and 4 shall apply.

H. Home Instruction Due to Temporary Illness or Injury for Pupils With or Without Disabilities

To request home instruction due to temporary illness or injury, the parent (s), legal guardian (s) and/or the adult pupil must submit a written determination from a physician documenting the need for confinement for at least a two week period of time.

1. The written request shall be immediately forwarded to the school physician who shall verify the determination of the need for home instruction without delay.
2. Instructional services shall begin as soon as possible and no later than seven calendar days after the school physician's verification.
3. A record of the pupil's home instruction shall be maintained.
4. The teacher providing instruction shall be certified as teacher of the handicapped or for the subject or level in which the instruction is given.
5. Instruction shall be provided for no fewer than five hours per week in no fewer than three visits by a certified teacher on at least three separate days.

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6. Instruction shall provided at the pupil's place of confinement. If the pupil is confined to a hospital, convalescent home, or other medical institution.
 - a. Instruction shall be provided by the school district, an Educational Services Commission, a State-operated facility, a Jointure Commission or an approved clinic or agency at the pupil's place of confinement;
 - b. Instruction shall be provided through one to one instruction in accordance with 1e. above or through instruction provided in a small group. The number of hours of instruction per week for the group is determined by multiplying the number of pupils in the group by five hours. The hours of instruction must be provided in no fewer than three visits by certified teacher on at least three separate days;
 - c. Instruction may be provided by direct communication to a classroom program by distance learning devices. If provided in addition to the one to one in accordance with 1e. above or small group instruction in accordance with 2e. above.
7. Pupils shall receive a program that meets the school district's requirements for promotions and/or graduation.
8. For pupils with disabilities, the school district shall provide a program that is consistent with the pupil's IEP to the extent appropriate. When the provision of home instruction shall exceed thirty consecutive school days in a school year, the IEP Team shall convene a meeting to review and if appropriate, revise the pupil's IEP, and when a non-disabled pupil is confined at home or in the hospital by a physician shall refer the pupil to the CST in accordance with N.J.A.C. 6A:14-3.3(e).

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1. Exceptions for the age range and group sizes specified in N.J.A.C. 6A:14-4.4 through 4.7 shall be granted on an individual basis, only with prior written approval of the New Jersey Department of Education through the County Office of Education, and for a period not to exceed one year.
2. The County Office of Education shall either approve or deny the request. If a request for an exception is denied, the school district shall implement the IEP.
3. The parent (s), legal guardian of a pupil with a disability, and/or the adult pupil for whom the exception is requested, and the parent (s), legal guardian (s) of the pupils, and/or the adult pupil who is/are affected by the request for an exception shall be informed by the school district that such a request is being submitted to the County Office of Education.
4. Upon approval of the exception by the County Office of Education, the school district or the appropriate education agency shall inform the parent (s), legal guardian (s) of the pupil and/or the adult pupil with disabilities who is/are affected by the exception.

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**SPECIAL EDUCATION –LOCATION, IDENTIFICATION
AND REFERRAL****A. Location, Referral and Identification**

1. This regulation shall apply to pupils ages three through twenty-one, including pupils that attend nonpublic schools, who resides within the school district. This regulation includes procedures to locate pupils who may be disabled and to refer pupils who may be experiencing physical , sensory, communication, cognitive or social difficulties.
2. Teaching staff members, administrative staff and other professional staff of the district, parent (s), legal guardian (s) and/or the adult pupil and other agencies working in and with the school district shall be informed of the referral process that may identify pupils who are experiencing physical, sensory, emotional, communication, cognitive, or social difficulties.
3. Interventions in the general education program to alleviate educational problems shall be provided to a pupil unless the pupil's educational problem (s) is/are such that direct referral to the Child Study Team (CST) is required in accordance with 4. below.
 - a. Teaching staff members shall be instructed in the criteria that may identify pupils who are experiencing physical, sensory, emotional, communication, cognitive, or social difficulties. The general education program staff shall maintain written documentation of the implementation and effectiveness of the intervention.
 - b. When it is determined that interventions in the general education program have not adequately addressed the educational difficulties and it is believed that the pupil may be disabled, the pupil shall be referred for

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Parental, legal guardian (s) and/or the adult pupil consent for the evaluation shall be obtained.

- a. To facilitate the transition from early intervention to preschool, a CST member shall participate in the preschool transition planning conference arranged by the Department of Health and Senior Services.
- b. Preschoolers with disabilities shall have their Individualized Education Program's (IEPs) implemented no later than age three. To assure this, a written request for initial evaluation shall be forwarded to the school district at least one hundred twenty days prior to the preschooler attaining age three.
- c. When a preschool age child is referred for an initial evaluation, speech-language specialists shall participate as a member of the Child Study Team (CST) in the meeting to determine whether to evaluate and the nature and scope of the evaluation.
- d. For pupils ages five through twenty-one, when the suspected disability includes a language disorder, the CST, the parent (s), legal guardian (s) and/or the adult pupil, a speech-language specialist and the regular education teacher who has knowledge of the pupil's educational performance or the school district's programs shall participate in the meeting to decide whether to evaluate and the nature and scope of the evaluation.
- e. For the pupils ages five to twenty-one, when the suspected disability is a disorder of voice, articulation and/or fluency only, the decision to evaluate and the

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evaluation to determine eligibility for special education programs and services under N.J.A.C. 6A:14 et seq.

- c. A determination whether or not to conduct an evaluation shall be made in accordance with 5. below.
- 4. Interventions in the regular education program are not a prerequisite to an evaluation of services under N.J.A.C. 6A:14 et seq. when:
 - a. It can be documented that the nature of the pupil's educational problem is such that evaluation to determine eligibility for services under N.J.A.C. 6A:14 et seq. is warranted without delay; or
 - b. The parent (s), legal guardian (s) and/or the adult pupil makes a written request for an evaluation to determine eligibility for services under N.J.A.C. 6A:14 et seq. Such a request shall be forwarded without referral and shall be forwarded without delay to the CST for consideration.
- 5. When a preschool age or school age pupil is referred for an initial evaluation to determine eligibility for special education programs and services under N.J.A.C. 6A:14 et seq., a meeting of the CST, the parent(s), legal guardian (s) and/or the adult pupil and the regular education teacher who is knowledgeable about the pupil's educational performance or the school district's programs shall be convened within twenty calendar days (excluding school holidays, but not summer vacation) of receipt of the written request. This group shall determine whether an evaluation is warranted, and if warranted, shall determine the nature and scope of the evaluation, in accordance with N.J.A.C. 6A:14-2.3 (a).

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determination of the nature and scope of the evaluation shall be in accordance with 5. above, except that the meeting shall include the speech-language specialist, the parent (s), legal guardian and/or the adult pupil and the regular education teacher who has knowledge of the pupil's educational performance or the district's programs.

6. When it is determined that an evaluation for eligibility for services under N.J.A.C. 6A:14 et seq. is warranted, the pupil shall be considered identified as potentially disabled and the disciplinary requirements of N.J.A.C. 6A:14-2.8 shall apply.
7. Audiometric screening and vision screening in accordance with N.J.A.C. 6:29-5. shall be conducted for every pupil referred to the CST for a special education evaluation.
8. Vision screening shall be conducted by the school nurse for every pupil referred to the CST for a special education evaluation.

B. Determination of Eligibility for Special Education and Related Services

1. When an initial evaluation is completed for a pupil age three through twenty-one, a meeting in accordance with N.J.A.C. 6A:14-2.3 (i)1 shall be convened to determine whether the pupil is eligible for special education and related services. A copy of the evaluation report (s) and documentation of eligibility shall be given to the parent (s), legal guardian (s) and/or the adult pupil. If eligible, the pupil shall be assigned the classification "eligible for special education and related services." Eligibility shall be determined collaboratively by the participants described by N.J.A.C. 6A:14-2.3 (i)1.
2. In making a determination of eligibility for special education and related services, a pupil shall not be determined eligible if the determinant factor is due to lack of instruction in reading or math or due to limited English proficiency.

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3. A pupil shall be determined eligible and classified "eligible for special education and related services" when it is determined that the pupil has one or more of the disabilities defined below; the disability adversely affects the pupil's educational performance and the pupil is in need of special education and related services. Classification shall be based on all assessments conducted including assessments by CST members and assessments by other specialists as specified in N.J.A.C. 6A: 14-3.5 (5) 1-13. The disabilities are:
- a. Auditorily impaired
 - (1) Deafness
 - (2) Hearing impaired
 - b. Autistic
 - c. Cognitively impaired
 - (1) Mild cognitive impairment
 - (2) Moderate cognitive impairment
 - (3) Severe cognitive impairment
 - d. Communication impaired
 - e. Emotionally disturbed
 - f. Multiply disabled
 - (1) Multiple disabilities
 - (2) Deaf/blindness
 - g. Orthopedically impaired
 - h. Other health impaired

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- i. Preschool disabled
- j. Social Maladjustment
- k. Specific learning disabilities
- l. Traumatic brain injury
- m. Visually impaired

C. Determination of Eligibility for Speech Language Services

1. "Eligible for speech-language services" means a speech-language disorder as follows:
 - a. A speech disorder in articulation/phonology, fluency, voice, or any combination, unrelated to dialect, cultural differences or the influence of a foreign language which adversely affects a pupil's educational performance; and or
 - b. A language disorder which meets the criteria of N.J.A.C. 6A:14-3,5(c)4 and the pupil requires speech language services only.
2. The evaluation of a speech disorder shall be conducted in accordance with N.J.A.C. 6A:13-3.4(e). Documentation of the educational impact of the speech problem shall be provided by the pupil's teacher. The speech disorder must meet the criteria in a, b, and/or c below and require instruction by a speech-language specialists:
 - a. Articulation/phonology: On a standardized articulation or phonology assessment, the pupil exhibits one or more sound production error patterns beyond the age at which 90% of the population has achieved mastery in accordance with current development norms and misarticulate sounds consistently in a speech sample.

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- b. Fluency: The pupil demonstrates at least mild rating, or its equivalent, on a formal, fluency rating scale in a speech sample, the pupil exhibits disfluency in five percent or more of the words spoken.
 - c. Voice: On a formal rating scale, the pupil performs below the normal level for voice quality, pitch, resonance, loudness or duration and the condition is evident on two separate occasions, three to four weeks apart, at different times.
- 3. When the initial speech-language evaluation is completed classification shall be determined collaboratively by the participants at a meeting in accordance with N.J.A.C. 6A:14-2.3 (i) 1. The speech-language specialist who conducted the evaluation shall be considered a CST member at the meeting to determine whether a pupil is eligible for speech services. A copy of the evaluation report(s) and documentation of eligibility shall be given to the parent (s), legal guardian (s) and/or the adult pupil.
- 4. The IEP shall be developed in a meeting in accordance with N.J.A.C. 6A:14-2.3 (i)2. The speech-language specialist shall be considered the CST member, the individual who can interpret the instructional implications of evaluation results and the service provider at the IEP meeting. The speech-language specialist shall not serve also as the agency representative at the IEP meeting.
- 5. When a pupil has been determined eligible for speech-language services and other disabilities are suspected or other services are being considered, the pupil shall be referred to the CST.

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SPECIAL EDUCATION-INDIVIDUALIZED EDUCATION PROGRAM
(IEP), REEVALUATION AND RELATED SERVICES

A. Individualized Education Program (IEP)

1. A meeting to develop the IEP shall be held within thirty calendar days of a determination that a pupil is eligible for speech-language services. An IEP shall be in effect before special education and related services are provided to a pupil with a disability and such IEP shall be implemented as soon as possible following the IEP meeting. At the beginning of each school year, the school district shall have in effect an IEP for every pupil who is receiving special education and related services from the school district.
2. The IEP shall be developed by the IEP Team in accordance with N.J.A.C. 6A:14-2.3 (i)2 for pupils classified eligible for special education and related services or in accordance with N.J.A.C. 6A:14-3.6 (d) for pupils classified eligible for speech-language services.
3. When developing the IEP, the IEP Team shall:
 - a. Consider the strengths of the pupil and the concerns of the parent (s), legal guardian (s) and/or the adult pupil for enhancing the education of their child;
 - b. Consider the results of the initial evaluation or most recent evaluation of the pupil;
 - c. In the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior;

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- d. In the case of a pupil with limited English proficiency, consider the language needs of the pupil as related to the IEP;
 - e. In the case of a pupil who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the pupil's reading and writing skills, and current and projected needs for instructions is not appropriate;
 - f. Consider the communication needs of the pupil;
 - g. In the case of a pupil who is deaf or hard of hearing consider the pupil's language and communication needs, opportunities for direct communication with peers and professional personnel in the pupil's language and communication mode, academic level, and full range of opportunities for direct instruction in the pupil's language and communication mode;
 - h. Consider whether the pupil requires assistive technology devices and services; and
 - i. Beginning at age fourteen, consider the need for technical consultation from the Division of Vocational Rehabilitation Services, Department of Labor.
4. With the exception of the IEP for a pupil classified as eligible for speech-language services, the IEP shall include, but not be limited to:
- a. A statement of the pupil's present levels of educational performance, including, but not limited to:
 - (1) How the pupil's disability affects the pupil's involvement and progress in the general

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curriculum; or

- (2) For preschool pupils, as appropriate, how the disability affects the pupil's participation in appropriate activities.

- b. A statement of measurable annual goals that shall be related to the core curriculum content standards through the general education curriculum unless otherwise required in accordance with the pupil's educational needs. Such measurable annual goals shall include benchmarks or short-term objectives related to:

- (1) Meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general education curriculum; and
- (2) Meeting each of the pupil's other educational needs that result from the pupil's disability.

- c. A statement of the special education and related services and supplementary aids and services that shall be provided for the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that shall be provided for the pupil:

- (1) To advance appropriately toward attaining the annual goals;
- (2) To be involved and progress in the general educational curriculum in accordance with 4. above and to participate in extracurricular and non academic activities; and

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"Pupils with disability" means a pupil who has been determined to be eligible for special education and related services according to N.J.A.C. 6A:14-3.5 or 3.6.

"Recreation" for pupils with disabilities means instruction to enable the pupil to participate in appropriate leisure activities, including involvement in recreation programs offered by the district Board of Education and the facilitation of a pupil's involvement in appropriate community recreation programs.

"Referral" means the written request for an initial evaluation to determine whether a pupil is eligible for services under this chapter.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a pupil with a disability to benefit from special education as specified in the pupil's IEP, and includes speech-language pathology and audiology services, psychological services, physical and occupational therapy recreation, early identification and assessment of rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. The term also includes school nursing services, social work services in schools and parent and/or legal guardian counseling and training that is related to the education of the pupil.

"Special education" means specially designed instruction to meet the educational needs of pupils with disabilities including, but not limited to, subject matter instruction physical education and vocational training.

"Speech-language" means a speech correctionist or speech-language specialist.

"Transition services" means a coordinated set of activities for a pupil, designed within an out-come oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

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OPPORTUNITY****A. Program and Instruction – General Requirements**

1. The Board of Education shall provide educational programs and related services for pupils with disabilities required by the Individualized Education Program (IEP) of those pupils for whom the Board is responsible.
2. The length of the school day and academic year for pupils with disabilities shall be not less than a day and year established for non-disabled pupils.
3. Programs for the preschoolers with disabilities shall be in operation five days per week, one day of which may be used for parent (s), legal guardian (s) and/or the adult pupil training and at least four days of which shall provide a minimum total of ten hours of pupil instruction.
4. If classroom aide is employed, he/she shall work under the direction of the principal, special education teacher, general education teacher or other appropriately certified personnel in a special education program. The job description of a classroom aide shall be approved by the New Jersey Department of Education through its County Office of Education.
5. Physical education, specially designed if necessary, shall be made available to every pupil with a disability aged five through twenty-one, including pupils in separate facilities.
6. When a pupil with a disability transfers from another New Jersey school district or from an out-of-state school district the Child Study Team (CST) shall conduct an immediate

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- review of the evaluation information and the IEP.
- a. If the parent (s), legal guardian (s) and/or the adult pupil and the district agree, the IEP shall be implemented as written.
 - b. The pupil shall be provided a program through an interim IEP that is consistent with the current IEP when the current evaluation and/or current IEP; the parent (s), legal guardian (s) and/or the adult pupil disagrees with the proposed revisions to the IEP; and/or supplemental evaluations are required.
 - c. If the records from the previous school district are incomplete or not available, the school district shall place the pupil into an interim educational program consistent with information available. The school district shall complete any evaluations and develop or revise the IEP without delay.
7. When the IEP does not describe any restrictions, the pupil shall be included in the regular school program.
- a. When instruction in health, industrial arts, fine arts, music, home economics, and other regular education programs is provided to groups consisting solely of pupils with disabilities, the size of the groups and the age range shall conform to the special class programs as per N.J.A.C. 6A:14-4.10.
 - b. When pupils with disabilities participate in physical education, intramural and interscholastic sports, non-academic and extra curricular activities in groups consisting solely of pupils with disabilities, the age range and size shall be based on the nature of the activity, needs of the pupils participating in the activity and the level of supervision required.
8. The Board, through appropriate personnel, shall establish and implement a plan to evaluate special education programs and services in accordance with N.J.S.A. 18A:7A-

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10,11,14, and 14.1 and N.J.A.C. 6A:14 et seq.

9. The Board shall ensure all pupils with disabilities have available to them the variety of educational programs and services available to non-disabled pupils.
10. The Board shall provide the parent (s), legal guardian (s) and/or the adult pupil with the opportunity to observe the proposed educational placement prior to implementation of the IEP.

B. Program Options

1. A full continuum of alternative placements shall be available to meet the needs of pupils with disabilities ages three through twenty-one for special education and related services.
Educational program options include placement in the following:
 - a. Regular class with supplementary aids and services, including but not limited to, curricular or instructional modification, or specialized instructional strategies; supplemental instruction; assistive technology devices and services as defined in N.J.A.C. 6A:12-1.3, teacher aides and related services;
 - b. Resource programs;
 - c. A special class program in the pupil's school district;
 - d. A special education program in another local school district or vocational and/or technical school;
 - e. A special education program in a County Special Services school district, an Educational Services Commission, and/or a Jointure Commission;
 - f. A New Jersey approved private school for the disabled

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- or an out-of-state private school in accordance with N.J.A.C. 6A:14-4.3(a)7;
- g. A program operated by a Department of New Jersey State government;
 - h. Community rehabilitation programs;
 - i. Programs in hospitals, convalescent centers or other medical institutions;
 - j. Individual instruction at home or in other appropriate facilities, with the prior written approval of the New Jersey Department of Education through the County Office of Education;
 - k. An accredited nonpublic school which is not specifically approved for the education of pupils with disabilities in accordance with N.J.A.C. 6A:14-6.5;
 - l. Instruction in other appropriate settings in accordance with N.J.A.C. 6A:14-1.1 (d); and/or
 - m. An early intervention program (which is under contract with the New Jersey Department of Health and Senior Services) in which the child has been enrolled for the balance of the school year in which the child turns three.
2. The IEP Team shall make an individual determination regarding the need for an extended school year program. An extended school year program provides for the extension of special education and related services beyond the regular school year and is provided in accordance with the pupil's performance to revert to a lower level of functioning and recoupment cannot be expected in a reasonable length of time. The IEP Team shall consider all relevant factors in determining the need for extended school year program.

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3. A preschool age pupil with a disability may be placed in an early childhood program operated by an agency other than another Board program in accordance with the following:
 - a. Such an early education program must be licensed or approved by a governmental agency;
 - b. The program must be nonsectarian;
 - c. There are assurances the pupil's IEP can be implemented in the early childhood program with any supplementary aids and services that are specified in the IEP; and
 - d. The special education and related services that are specified in the pupil's IEP shall be provided by appropriately certified and/or licensed personnel or by a paraprofessional in accordance with N.J.A.C. 6A:14-3.9 (a) or 4.1 (e).

C. Program Criteria: Speech-Language Services

Speech-language services provided to a pupil with a disability shall be in addition to the regular instructional program and shall be given individually or in groups. The size and the composition of the group shall be determined by the IEP Team in accordance with the speech-language needs of the pupil and shall not exceed five pupils. These services shall be provided by certified speech-language specialists as defined in N.J.A.C. 6A:13-1.3.

D. Program Criteria: Supplementary Instruction

1. Supplementary instruction shall be provided to the pupil with a disability in addition to the primary instruction for the subject being taught. The program of supplementary instruction shall be provided individually or in groups in accordance with the numbers for support resource programs.

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2. A teacher providing supplementary instruction shall be appropriately certified either for the subject or level in which instruction shall be specified in the pupil's IEP and shall be provided by the same teacher during the same instructional period.

E. Program Criteria: Resource Programs

1. The resource program shall offer individual and small group instruction to pupils with disabilities. Resource programs shall be offered in regular class and/or pullout resource programs. When a resource program is provided it shall be specified in a pupil's IEP.
2. The resource program teacher shall hold certification as a teacher of the handicapped. If the program solely serves pupils with visual impairments, the teacher shall be certified as a teacher of the blind or partially sighted. If the resource program solely serves the pupils with auditory impairment, the teacher shall be certified as a teacher of deaf and/or hard of hearing. A resource program teacher shall be provided time for consultation with appropriate general instruction teacher/staff.
3. An in-class resource program may be provided up to the pupil's entire instructional day and a pullout program at the elementary level may be provided for up to one half of the instructional day and at the secondary level up to the entire instructional day.
4. In a support resource program, the pupil must meet the regular education curriculum requirements for the grade or subject being taught. Modifications to the instructional strategies or testing procedures may be provided and, if provided, shall be provided in accordance with the pupil's IEP.

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The primary instructional responsibility for the pupil in a support resource program is the classroom teacher with input from the resource program teacher as specified in the IEP.

A support resource program provided in the pupil's regular class shall be at the same time and in the same activities as the rest of the class.

5. In a replacement resource program, the regular education curriculum and instructional strategies may be modified based on the pupil's IEP. The resource program teacher shall have primary instructional responsibility for the pupil and in an in-class replacement program only a single content area shall be taught to the group. A pupil receiving an in-class replacement program shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the IEP.
6. The age span in a approved separate resource program shall not exceed four years.
7. Group sizes for resource programs shall be in accordance with N.J.A.C. 6A:14-4.6 (h).
8. In-class support and in-class replacement instruction may be provided only at the preschool or elementary level to pupils with disabilities by the same teacher during the same instructional period. Group size for this combined in-class resource program shall not exceed three pupils with disabilities.
9. Secondary resource programs shall be in schools in which any combination of grades six through twelve are contained, and where the organizational structure is departmentalized for general education pupils.

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10. The Board may establish a team teaching model as an in-class resource program at the preschool or elementary level.

A regular and a special education teacher shall be assigned to the class full-time; the total number of pupils with disabilities enrolled in the class who are receiving in-class resource instruction must be limited to eight; and the school district must submit a description of the program to the New Jersey Department of Education through the County Office of Education in accordance with N.J.A.C. 6A:14-4.1 (b).

F. Program Criteria: Special Class Programs, Secondary and Vocational Rehabilitation

1. A special class program shall serve pupils who have similar educational need in accordance with their IEP and shall offer instruction in the core curriculum content standards unless the IEP specifies an alternative curriculum due to the nature or severity of the pupil's disability. The regular education curriculum and the instructional strategies may be modified based on the pupil's IEP. Special class programs shall meet the following criteria depending on the disabilities of the pupils assigned to the special class program, the teacher must hold certification as a teacher of the handicapped, teacher of the blind or partially sighted and/or teacher of the deaf or hard of hearing; the age span in special class programs shall not exceed four years; and a special class program shall not be approved as a kindergarten.
2. The school district shall provide a description of each special class program it provides including assurance that:
 - a. The nature and intensity of the pupil's educational needs shall determine whether the pupil is placed in a program that addresses moderate to severe cognitive disabilities or severe to profound cognitive disabilities;
 - b. Special class programs for pupil's with learning and/or language disabilities may be organized around the

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learning disabilities or the language disabilities or a combination of both;

- c. Instructional group sizes for preschool, elementary and secondary special class programs shall be in accordance with N.J.A.C. 6A:14-4.7 (b) 3.
- 3. Secondary special class programs are defined as programs which are located in schools in which there is any combination of grades six through twelve and where the organizational structure is departmentalized for general education pupils.
- 4. In addition to instructional class size as required in 2c. above, instruction may be provided in the following secondary settings as appropriate:
 - a. A class organized around a single content area solely of pupils with disabilities instructed by a regular education teacher where an adapted general education curriculum is used shall have a maximum instructional size of twelve. The size may be increased to sixteen with the addition of a classroom aide;
 - b. The number of pupils with disabilities in a regular education class instructed by a subject area teacher shall be limited to four, if significant modification is required.
- 5. Vocational education programs shall meet the following criteria;
 - a. For a pupil placed in a vocational program outside the district in a full-time county vocational school, the program and services responsibility shall be with the receiving school district. In a shared-time county

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- (3) To be educated and participate with other pupils disabilities and with non-disabled pupils.
- d. An explanation of the extent, if any, to which the pupil shall not participate with non-disabled pupils in the general education class and in extracurricular and nonacademic activities;
- e. A statement of any individual modifications in the administration of Statewide or district-wide assessments of pupil achievement needed for the pupil to participate in such assessment;

If the IEP Team determines that the pupil shall not participate in a particular Statewide or district-wide assessment of pupil achievement (or part of such an assessment), a statement of why that assessment is not appropriate for the pupil and a statement of how the pupil shall be assessed;
- f. A statement which specifies that projected date for the beginning of the services and modifications described in 4.c above, and the anticipated frequency, location , and duration of those services and modifications. For in-class resource programs, the IEP shall specify the frequency and amount of instructional time the in-class resource teacher is present in the class;
- g. A statement of the State and local graduation requirements that the pupil shall be expected to meet. If a pupil with a disability is exempted from local and State high school graduation requirements, the statement shall include;

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- (1) A rationale for the exemption based on the pupil's educational needs which shall be consistent with N.J.A.C. 6A:14-4.12; and
 - (2) A description of the alternate proficiencies to be achieved by the pupil to qualify for a Statement endorsed diploma.
- h. A statement of pupil's transition from an elementary program to the secondary program which shall be determined by factors including number of years in school; social, academic and vocational development; and chronological age;
- i. Beginning at age fourteen, and updated annually, a statement of the transition service needs of the pupil under the applicable parts of the pupil's IEP that focuses on the pupil's courses of study including, when appropriate, technical consultation from the Division of Vocational Rehabilitation Services, Department of Labor;
- j. For pupils with disabilities age sixteen and over, or younger if deemed appropriate, a statement of needed transition services including when appropriate, a statement of the interagency responsibilities, or any needed linkage.

The transition services as defined in N.J.A.C. 6A:14-1.3 shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests and shall include:

- (1) Instruction;

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- (2) Related services;
 - (3) Community experiences;
 - (4) The development of employment and other post-school adult living objectives; and
 - (5) If appropriate, acquisition of daily living skills and functional vocational evaluation.
- k. If the participants in the IEP Team meeting determine that transition services shall not be needed in one or more of the specified areas in 4.J.1.(1) through (5) above, a statement to that effect and the basis upon which the determination was made;
- l. Names of the person(s) responsible to serve as a liaison to post-secondary resources and make referrals to the resources as appropriate. If the pupil with disabilities does not attend the IEP meeting where transition services are discussed, the district Board of Education or public agency shall take other steps to ensure that the pupil's preferences and interests are considered;
- m. Beginning at least one year before the pupil reaches age eighteen, a statement that the pupil has been informed of the rights under N.J.A.C. 6:14A-1 et seq. that shall transfer to the pupil on reaching the age of majority;
- n. A statement of how the pupil's progress toward the annual goals described in 4b. above shall be measured; and
- o. A statement of how the pupil's parent (s), legal guardian (s) and/or the adult pupil shall be regularly informed of their pupil's progress toward the annual goals and the

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extent of which that progress is sufficient to enable the pupil to achieve the goals by the end of the year. The parent (s), legal guardian (s) and/or the adult pupil with a disability shall be informed of the progress of their child at least as often as parents of a non-disabled pupil are informed of their child's progress.

5. The IEP for the pupil classified as eligible for speech-language services shall include 4. a. through f., n. and o. above. When appropriate, 4. i. and j. above shall also be included. The statement of the current educational status in 4. a. above shall be a description of the pupil's status in speech-language performance. Pupils who are classified as eligible for speech-language services shall not be exempted from district-wide or statewide assessment.
6. If an agency other than the school district fails to provide the transition services included in the pupil's IEP, the school district shall reconvene a meeting of the IEP Team. Alternative strategies to meet the pupil's transition objectives shall be identified.
7. If an agency invited to send a representative to the IEP Team meeting does not do so, the school district shall take other steps to obtain the participation of the other agency in the planning of transition services.
8. Annually, or more often if necessary, the IEP Team shall meet to review and revise the IEP and determine placement as specified in N.J.A.C. 6:14-3.7.
 - a. The annual review of the IEP for a preschool pupil with disabilities shall be completed by June 30 of the pupil's last year in the elementary school program.

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- b. The annual review of the IEP for an elementary school pupil with disabilities shall be completed by June 30 of the pupil's last year in elementary school program. The annual review shall include input from the staff of the secondary school.
- 9. The IEP Team shall review:
 - a. Any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;
 - b. The result of any reevaluation conducted in accordance with N.J.A.C. 6A:14-3.8;
 - c. Information about the pupil including information provided by the parent (s), legal guardian and/or the adult pupil, current classroom-based assessments and observations, and the observations of teachers and related services providers;
 - d. The pupil's anticipated needs; or
 - e. Other relevant matters.
- 10. Signatures of those persons who participated in the development of the IEP shall be maintained and a copy of the IEP shall be provided to the parent (s), legal guardian (s) and/or the adult pupil.
- 11. When the parent (s), legal guardian (s) and/or the adult pupil declines participation in an IEP Team meeting or is in disagreement with the recommendations, the remaining participants shall develop a written IEP in accordance with this regulation. However, initial implementation of special education cannot occur until consent is obtained or a due progress hearing decision is issued.

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For other than initial implementation of special education, consent is not required. The parent (s), legal guardian (s) and/or the adult pupil shall be provided written notice in accordance with N.J.A.C. 6A:14-2.3 (e) and (f).

B. Reevaluation

1. Within three years of the previous classification, a multi-disciplinary reevaluation shall be completed to determine whether a pupil continues to be a pupil with a disability. Reevaluation shall be conducted sooner, without undue delay, if conditions warrant or if the pupil's parent (s), legal guardian and/or the adult pupil or teacher request the reevaluation.
2. The IEP Team shall determine the nature and scope of the reevaluation in accordance with the following;
 - a. The IEP Team shall review existing data in accordance with N.J.A.C. 6A:14-3.4 (a) 2 and administer such tests and procedures needed to determine whether the pupil continues to have a disability in accordance with N.J.A.C 6A:14-3.5 (c) or 3.6 (a), the pupil's present levels of performance and educational needs, whether the pupil needs special education and related services need to be added to or modified to meet the annual IEP goals and to participate, as appropriate, in the general education curriculum;
 - b. If the IEP Team determines no additional data are needed to determine whether the pupil continues to have a disability, the school district shall provide notice in accordance with N.J.A.C. 6A:14-2.3 (e) and (f) to the parent (s), legal guardian (s) and/or

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the adult pupil to request an assessment to determine whether the pupil continues to be pupil with a disability. If requested by the parent (s), legal guardian (s) and/or the adult pupil the assessment must be conducted;

- c. If the reevaluation is warranted, the IEP Team shall determine which Child Study Team (CST) members and/or specialist shall conduct the reevaluation.
3. Prior to conducting any reevaluation of a pupil with a disability, the school district shall obtain consent from the parent (s), legal guardian (s) and/or the adult pupil in accordance with N.J.A.C. 6A:14-2.3 (a) 3.
4. Individual assessments shall be conducted in accordance with N.J.A.C. 6A:14-3.4 (d) 1 and 2 or 3.4 (e), as appropriate.
5. A reevaluation shall be conducted when a change in eligibility is being considered.
6. When a reevaluation is completed a meeting of the pupil's IEP Team in accordance with N.J.A.C. 6A:14-2.3 (i) 2 or 3.6 (c) shall be conducted to determine whether the pupil continues to be a pupil with a disability. A copy of the evaluation reports and documentation of eligibility shall be provided to the parent (s), legal guardian (s) and/or the adult pupil. If the pupil remains eligible, and IEP Team meeting in accordance with N.J.A.C. 6A:14-2.3 (i)2 or 3,6 (d) shall be conducted to review and revise the IEP.

C. Related Services

1. Related services shall be provided by to a pupil with a disability when required for the pupil to benefit from the educational program.

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education equipment, transportation aides and special arrangements for other assistance to and from and in and around school. Transportation shall be provided for out of school district special education placements consistent with the school calendar of the receiving school district. The case manager shall provide the transportation coordinator and bus driver with any specific information including safety concerns, mode of communication, health and behavioral characteristics of the pupil assigned. Safety belts or restraint systems are required for transporting disabled pupils below the age of five.

- h. The Board shall provide other related services as specified in the pupil's IEP.
- 2. School personnel may give advice to parent (s), legal guardian (s) and/or the adult pupil regarding additional services which are not required by law. This advice places no obligation on the Board to provide or fund such services.

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Related services shall be provided by appropriately certified and/or licensed professionals in accordance with the pupil's IEP and may include, but not limited to, one or more of the following

- a. Counseling services that are provided by school district personnel by certified school psychologists, social workers and guidance counselors.
- b. Counseling and/or training services for parent (s), legal guardian (s) and/or the adult pupil to assist them in understanding the special education needs.
- c. Speech and language services may be provided and related services for the classified "eligible for special education and related services." The pupil must meet the eligibility criteria for the classification of "eligible for speech-language services" but is not required to be classified as such.
- d. Occupational and physical therapy may be provided by the therapy assistants under the direction of certified and/or licensed therapists in accordance with applicable State statutes and rules.
- e. The Board may contract for the provision of counseling services, occupational therapy, and/or physical therapy in accordance with N.J.A.C 6A: 13-5.1 et seq.
- f. Recreational services shall be provided by certified school personnel.
- g. The Board shall provide transportation services as required in the IEP. Services shall include special

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Pupils with disabilities shall be educated in the least restrictive environment. The Board of Education shall ensure that:

1. To the maximum extent appropriate, a pupil with a disability is educated with children who are not disabled;
2. Special classes, separate schooling or other removal of a pupil with a disability from the pupil's regular class occurs only when the nature or the severity of the disability is such that education in the pupil's regular class with the use of appropriate supplemental aids and services cannot be achieved satisfactorily;
3. A full continuum of alternative placements in accordance with N.J.A.C. 6A:14-4.3 is available to meet the needs of pupils with disabilities for special education and related services;
4. Placement of a pupil with a disability is determined at least annually and placement shall be based on the pupil's Individualized Education Program (IEP);
5. Placement of pupils with disabilities is provided in appropriate education settings as close to home as possible;
6. When the IEP does not describe specific restrictions, the pupil shall attend the school he/she would attend if not disabled; and

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7. consideration shall be given to : (1) whether the pupil can be educated satisfactorily in a regular classroom with supplementary aids and services; (2) a comparison of the benefits provided in a regular class and the benefits provided in a special education class; and (3) the potentially beneficial or harmful effects which a placement may have on the pupil with disabilities or the other pupils in the class.

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1. A pupil with a disability age sixteen through twenty-one, who voluntarily leaves the school district before receiving a high school diploma, may reenroll at any time up to and including the school year of his/her twenty-first birthday.
2. The Superintendent of Schools and/or designee shall provide, upon request by the parent (s), legal guardian (s) and/or the adult pupil, copies of special education statutes and rules, pupil record rules and/or low cost legal or other services relevant to a due process hearing and/or rules.
3. If mediation or due process hearing involves the pupil's initial admission to the school district, the pupil shall be placed in an interim public school program agreed to by the school district and the parent (s), legal guardian (s) and/or the adult pupil pending the outcome of the mediation or due process hearing.

B. Surrogate Parents

1. In the event that a pupil's parent (s), legal guardian and/or the adult pupil cannot be identified or cannot be located after reasonable efforts, or a pupil is a ward of the State of New Jersey, the Superintendent shall appoint an individual to act as surrogate for the parent under these rules and in accordance with N.J.A.C. 6A:14-2.2.
2. The surrogate parent shall not be an employee of the Board of Education, have any interest that shall conflict or appear to conflict with the pupil he/she represents, and possess knowledge and skills that ensure adequate representation of the pupil.

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3. The method to select a surrogate parent and a training program for surrogate parents shall be established by the Superintendent and reviewed on an annual basis.

C. Parental Participation

1. The consent of the parent (s), legal guardian (s) and/or the adult pupil shall be obtained prior to an initial evaluation, prior to the implementation of the initial Individualized Education Program (IEP) resulting from an initial evaluation, prior to reevaluation, except that consent is not required if the school district administration can demonstrate that it has taken reasonable measures to obtain such consent, the school district administration shall implement without delay the action for which consent was granted.
2. If a parent (s), legal guardian (s) and/or the adult pupil refuses to provide consent and the school district and the parent (s), legal guardian (s) and/or the adult pupil have not agreed on other action, the school district administration shall request a due process hearing to obtain consent.
3. Written notice shall be provided to the parent (s), legal guardian (s) and/or the adult pupil when the school district administration:
 - a. Proposes to initiate or change the identification, classification, evaluation, or educational placement of the pupil, or the provision of a free appropriate education to the pupil; or
 - b. Declines to initiate or change the identification, classification, evaluation, or educational placement of the pupil, or the provision of a free appropriate education to the pupil.
4. Written notice must be given in a language understandable to the general public, and, wherever feasible, in the native

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language of the parent (s), legal guardian (s) and/or the adult pupil. Any notice supplied under this rule shall be clearly written and shall include:

- a. A description of the action proposed or denied including;
 - b. An explanation of why the school district is taking such action;
 - c. A description of any options considered and the reasons why those options were rejected;
 - d. A description of procedures, tests, records or reports, and factors used in the school district's decision whether to propose or deny an action;
 - e. A description of any other factors relevant to the proposal or refusal by the school district;
 - f. A statement that the parent (s), legal guardian (s) of the pupil and/or the adult pupil with a disability have protection under the procedural safeguards, the means by which a copy of the procedural safeguards can be obtained and sources the parent (s), legal guardian (s) and/or the adult pupil can contact to obtain assistance in understanding the laws and statutes; and
 - g. A copy of the procedural safeguards statement published by the New Jersey Department of Education shall be provided upon referral for an initial evaluation, upon notification of an IEP meeting, upon reevaluation, and when a request for a due process hearing is submitted to the New Jersey Department of Education.
5. Written notice shall be given to parent (s), legal guardian (s) and/or the adult pupil no later than fifteen calendar days after making a determination, and at least fifteen calendar days prior

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to the date of implementation of proposed action for the parent (s), legal guardian (s) and/or the adult pupil to consider the proposed action. The proposed action may be implemented sooner if the parent (s), legal guardian (s) and/or the adult pupil agrees in writing.

The school district shall implement the proposed action on the fifteenth day after notice unless:

- a. The parent (s), legal guardian (s) and/or the adult pupil disagrees with the proposed action, and the school district takes action in an attempt to resolve the disagreement; or
- b. The parent (s), legal guardian (s) and/or the adult pupil requests mediation or a due process hearing.

6. The school district may provide written notice less than fifteen calendar days prior to the implementation of a disciplinary action when the IEP Team determines that disciplinary action requires immediate implementation. The school district shall maintain documentation of all written notices. Such written notice shall comply with the requirements of this regulation, and shall include the reason (s) that notice for less than fifteen calendar days was warranted. During the pendency of mediation, or a due process hearing related to the disciplinary action, the pupil shall be returned to the last agreed upon placement, unless the parent (s), legal guardian (s) and/or the adult pupil and school district agree otherwise, the school district requests emergency relief, or if the pupil has been placed in an interim alternative educational setting in accordance with 20 U.S.C. S1415(k) (1) (ii) or S1415 (k) (2), the pupil shall remain in the interim alternative educational setting in accordance with 20 U.S.C. S1415 (k) (7).

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7. Upon receipt of any written parental, legal guardian (s) and/or the adult pupil request to initiate or change the identification, classification, evaluation, educational placement or the provision of a free, appropriate public education, a response that meets the written notice requirements in this regulation shall be provided to the parent (s), legal guardian (s) and/or the adult pupil within twenty calendar days, excluding school holidays, but not summer vacation.
8. When a determination is made to conduct or not to conduct an initial evaluation, in addition to the notice requirement of this regulation, the parent (s), legal guardian (s) and/or the adult pupil shall be provided a copy of the special education rules (N.J.A.C. 1:6A).
9. The Board of Education shall take steps to ensure parent (s), legal guardian (s) and/or the adult pupil are given the opportunity to participate in:
 - a. The identification and evaluation of the pupil by providing relevant information to the evaluation team;
 - b. The determination of the pupil's eligibility for special education and related services;
 - c. The development of the pupil's IEP in accordance with N.J.A.C. 6A:14-3.7;
 - d. The placement of the pupil with a disability; and
 - e. The annual review of the IEP.
10. Meetings shall be conducted to determine eligibility and to develop, review and revise the pupil's IEP. Meeting to determine eligibility and develop the IEP may be combined so long as the requirements for notice are met.

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11. An initial eligibility meeting for pupils classified, in accordance with N.J.A.C. 14-3,5c, shall include the parent (s), legal guardian (s) and/or the adult pupil, the teacher having knowledge of the pupil's educational performance or school district's programs, the pupil, where appropriate, at least one member of the Child Study Team (CST) who participated in the evaluation, the case manager, other appropriate individuals at the discretion of the Superintendent or designee or the parent (s), legal guardian (s) and/or the adult pupil and, for an initial eligibility meeting, certified school personnel referring the pupil as potentially disabled or the Principal, or designee if they choose to participate.
12. Meeting to develop or review the pupil's IEP, for pupils classified in accordance with N.J.A.C. 14-3.5 or 3.6 shall include the following participants:
 - a. The parent (s), legal guardian (s) and/or the adult pupil;
 - b. At least one regular classroom teacher knowledgeable about the pupil's educational performance or the school district's programs, if the pupil is or may be participating in a regular education classroom;
 - c. At least one special education teacher, or where appropriate, at least one special education provider, knowledgeable about the pupil's educational performance or the school district's programs;
 - d. At least one CST member who can interpret the instructional implications of evaluation results;

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- e. The case manager;
 - f. A member of school or school district administration, and/or a CST member who is qualified to provide or supervise the provisions of specially designed instruction to meet the unique needs of pupils with disabilities and is knowledgeable about the general education curriculum, and the availability of resources of the Board;
 - g. At the discretion of the parent (s), legal guardian (s) and/or the adult pupil or school district, other individuals who have knowledge or special expertise regarding the pupil, including related services personnel as appropriate;
 - h. The pupil, where appropriate; and
 - i. If a purpose of the meeting is to consider transitional services, the pupil with disabilities and a representative of any other agency that is likely to be responsible for providing or paying for transition services, shall be invited to attend the IEP Team meeting.
13. Parent (s), legal guardian (s) and/or the adult pupil shall be given written notice of a meeting early enough to ensure that they shall have an opportunity to attend. Meetings shall be scheduled at a mutually agreed upon time and place, and the notice shall indicate the purpose, time, location, and participants. If the parent (s), legal guardian (s) and/or the adult pupil cannot attend the meeting (s), the Superintendent, or designee, shall attempt to ensure parental, legal guardian (s) and/or the adult pupil participation, including the use of electronic conference

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equipment. Documentation shall be maintained of attempts to secure parental, legal guardian (s) and/or the adult pupil participation.

14. A meeting may be conducted without the parent (s), legal guardian (s) and/or the adult pupil in attendance, if the school district administration can document that it is unable to secure the participation of the parent (s), legal guardian (s) and/or the adult pupil. Participants at the IEP Team meeting shall be permitted to use an audio-tape recorder.
15. Upon attainment of the eighteenth birthday, adult pupils shall be given a copy of the special education laws and the procedural safeguards statement published by the New Jersey Department of Education. An adult pupil shall be given notice and participate in meetings. When requesting consent to conduct an initial evaluation, or for initial implementation of a special education program and related services for an adult pupil, consent shall be obtained from the adult pupil, and notice shall be provided to the adult pupil and his/her parent (s), and /or legal guardian (s).

D. Native Language

Written notice to the parent (s), legal guardian (s) and/or the adult pupil and parent conferences required by N.J.A.C. 6A:14, shall be conducted in the language used for communication by the parent (s), legal guardian (s) and/or the adult pupil unless it is clearly not feasible to do so.

1. Foreign language interpreters or translators, and sign language interpreters for the deaf, shall be provided, when necessary, by the school district at no cost to the parent (s), legal guardian (s) and/or the adult pupil.

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2. If the native language is not a written language, the school district shall take steps to ensure the notice is translated orally, or by other means to the parent (s), legal guardian (s) and/or the adult pupil in his/her native language or other mode of communication, that the parent (s), legal guardian (s) and/or the adult pupil understands the content of the notice, and there is written documentation that this provision has been met.

E. Protection in Evaluation Procedures

1. In conducting the evaluation, staff shall:
 - a. Use a variety of assessment tools and strategies to gather relevant functional and developmental information. Information may be provided by the parent (s), legal guardian (s), and/or the adult pupil, and may assist in determining whether the child is a pupil with a disability and/or to determine the content of the pupil's IEP. This information may also be information related to enabling the pupil to be involved in and progress in the general education curriculum, or for preschool pupils with disabilities to participate in appropriate activities; and
 - b. Not use any single procedure as the sole criterion for determining whether a pupil is a pupil with a disability, or determining an appropriate educational program for the pupil; and
 - c. Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
2. The Superintendent shall ensure that evaluation procedures, including, but not limited to, tests, and other evaluation materials in accordance with N.J.A.C. 6A:14-3.4

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- a. Are selected and administered so as not to be racially and culturally discriminatory; and
 - b. Are provided and administered in the pupil's native language or other mode of communication, unless it is clearly not feasible to do so.
3. Any standardized tests that are administered must have been validated for the purpose (s) for which they are administered by certified personnel trained in conformance with the instructions provided by their producer.
4. The pupil shall be assessed in all areas of the suspected disability.
5. Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the pupil shall be provided.
6. Tests shall be selected, administered and interpreted so that when a pupil has sensory, manual or communication impairments, the results accurately reflect the ability which that procedure purports to measure, rather than the impairment, unless that is the intended purpose of the testing.
7. The evaluation shall be conducted by at least one evaluator of the multi-disciplinary team of professionals, consisting of at least two members of the CST, and where appropriate, other specialists. At least one member of the multi-disciplinary team shall be knowledgeable in the area of suspected disability.
8. A parent (s), legal guardian (s) and/or the adult pupil may request an independent evaluation if there is a disagreement with the evaluation provided by the school staff. Such

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evaluation shall be provided at no cost to the parent (s), legal guardian (s) and/or the adult pupil unless the school district initiates a due process hearing to show that its evaluation is appropriate, and final determination to that effect is made following the hearing. Any independent evaluation purchased at public expense shall be conducted in accordance with N.J.A.C. 6A:14-3.4, and be obtained from another public school district, and Educational Services Commission, a Jointure Commission or a clinic or agency approved under N.J.A.C. 6A:14-5, or private practitioner, who is certified and/or the licensed, where a license is required. Upon receipt of parental, legal guardian (s) and/or the adult pupil request, the Board shall provide information about where an independent evaluation may be obtained.

9. An independent medical evaluation may be obtained in accordance with N.J.A.C. 6A:14-5.1 (e).
10. Any independent evaluation submitted to the school district shall be considered in making decisions regarding special education and related services

F. Mediation

1. Mediation is a voluntary process available to resolve disputes that arise from the application of Board policy or this regulation. Mediation is available to pupils age three through twenty-one, when there is a disagreement regarding identification, evaluation, classification, educational placement, or the provision of a free appropriate education. A request for mediation shall not be used to deny or delay the right to request a due process hearing.

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2. If either party is unwilling to participate in mediation, a request for a formal due process hearing under N.J.A.C. 6A:14-2.7 may be made directly to the New Jersey Department of Education through the Office of Special Education Programs.
3. Either party may be accompanied and advised at mediation by legal counsel, or other person (s) with special knowledge or training with respect to the needs of pupil's with disabilities.
4. Mediation is available from the New Jersey Department of Education at the State level through the Office of Special Education Programs
5. The mediation conference shall be held at a time and place reasonably convenient to the parties in the dispute.
6. If mediation results in agreement, the conclusions shall be incorporated into a written agreement signed by each party. If the mediation does not result in agreement, the mediator shall document the date and the participants at the meeting. No other record of the mediation shall be made. Discussion that occurs during the mediation process shall be confidential, and shall not be used as evidence in any subsequent due process hearings or civil proceedings. The mediator shall not be called as a witness in any subsequent proceedings to testify regarding any information gained during the course of mediation.
7. Pending the outcome of mediation, no change shall be made to the pupil's classification, program, or placement, unless both parties agree, or emergency relief as part of a request for due process hearing is granted by the Office of Administrative Law (OAL) in accordance with N.J.A.C. 6A:14-2.7 (g), or provided in 20 U.S.C. S1415(k) (7)

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1. A due process hearing is an administrative hearing conducted by an Administrative Law Judge (ALJ). For a pupil age three through twenty-one, a due process hearing may be requested when there is a disagreement regarding identification, classification, evaluation or educational placement, and/or the provision of a free appropriate public education to that pupil. For pupils above the age of twenty-one, any disputes regarding the provisions of program and services to these pupils shall be handled as a contested case before the Commissioner of Education pursuant to N.J.A.C. 6:24.
2. The Board or public agency responsible for the development of the pupil's IEP, may request a due process hearing when it is unable to obtain required consent to conduct an initial evaluation, implement an initial IEP or release pupil records. The school district shall request a due process hearing when it denies a written parental, legal guardian (s), and/or the adult pupil's request for an independent evaluation in accordance with N.J.A.C. 6A:14-2.5c.
3. A request for a due process hearing must be made in writing to the State Director of the Office of Special Education Programs, New Jersey Department of Education with a copy to the other party. The written request must note that a copy has been sent to the other party. The written request must include the pupil's name, address, name of the school the pupil is attending, and shall state the specific issues in dispute, relevant facts, and the relief sought.
4. The following procedure is followed by the New Jersey Department of Education. The Office of Special Education Programs, upon receipt of a request for a due process hearing must comply with N.J.A.C. 6A:14-2.7 (d).

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- a. The Office of Special Education Programs shall acknowledge receipt of the request, and provide information regarding free and low cost legal services to the parent (s), legal guardian (s) and/or the adult pupil and the availability of mediation;
- b. Upon receiving the acknowledgment from the Office of Special Education Programs, the parties shall begin to exchange relevant records and information in accordance with the time limits in N.J.A.C. 6A; and
- c. Within seven calendar days of receipt of the written request, the Office of Special Education Programs shall conduct a transmittal conference;
 1. The purpose of the conference is to assist the parties in defining issues, identifying evidence, exchanging facts, stipulating facts and listing possible witnesses;
 2. The parties may agree to mediation at the transmittal conference in accordance with the following;
 - (a) The petitioner withdraws the request for a due process hearing;
 - (b) The mediator is available to conduct the mediation
 - (c) If no agreement is reached as a result of mediation, the petitioner may resubmit the request for the due process hearing, so conference can continue;

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- (d) If the mediator is unable to conduct the mediation at the transmittal conference, a mediation conference shall be scheduled within twenty calendar days of receipt of the original request for the due process hearing.
- 3. The Board shall ensure that the Superintendent, or designee with the authority of the Superintendent, participates in the transmittal conference.
- 4. The transmittal conference shall be scheduled at a time convenient to the parties. At the discretion of the representative from the Office of Special Education Programs, the conference may be conducted by telephone;
- 5. The transmittal conference may result in either withdrawal or transmittal to the OAL in accordance with N.J.A.C. 6A. If the conference results in transmittal to the OAL:
 - (a) The representative from the Office of Special Education Programs shall prepare a written document at the conference that specifies the issues in dispute, stipulations, evidence lists and witness list for each party. This document and the transmittal form shall be immediately forwarded to the OAL and to the parties.
 - (b) The representative from the Office of Special Education Programs shall telephone the clerk of the OAL, and schedule a hearing date which shall be not

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later than fourteen calendar days from the date of the conference, unless a later date is granted by the ALJ at the request of either party. If the parent (s), legal guardian (s) and/or the adult pupil does not participate in the conference, and is not available to schedule a hearing date, or the parties cannot agree to hearing dates, a date shall be assigned by the OAL within the required timelines.

5. Subject to adjournments granted by the AJL, a final decision shall be rendered not later than forty-five days after receipt of the request for a hearing. The decision of the AJL is final, binding on both parties, and to be implemented without delay, unless stayed in accordance with N.J.A.C. 6A:-18.4.
6. Either party may apply in writing for emergency relief as part of a request for a hearing, or at any time after such request in accordance with N.J.A.C. 1:6A-12.1. The request must be supported by an affidavit, or notarized statement specifying the basis for the request for emergency relief. The applicant must provide copies of the request to the other party, and the request must note that a copy was sent to the other party.
7. Prior to transmittal of a request for a due process hearing to the OA, application for emergency relief must be made to the Office of Special Education Programs, New Jersey Department of Education. After transmittal of a request for a due process hearing, any application for emergency relief must be made directly to the OAL.
8. Emergency relief may be requested in accordance with N.J.A.C. 1:6A-12.1. Emergency relief may be requested if school personnel maintain that it is dangerous for the pupil with a disability to be in current placement. Emergency relief may

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be requested by the parent (s), legal guardian (s) and/or the adult pupil if he/she disagrees with a decision related to disciplinary action, or with a decision related to placement in an interim alternative educational setting by school officials for behavior involving drugs or weapons in accordance with U.S.C. S1415 (k) (6) (A).

9. If the school district or public agency responsible for implementing the IEP fails to implement a hearing decision of the OAL, a request for enforcement may be made by the parent (s), legal guardian (s) and/or the adult pupil. The request must be made in writing to the State Director of the Office of Special Education Programs, New Jersey Department of Education. Upon receipt of this request, implementation of the decision shall be assured.
10. Pending the outcome of a due process hearing, or any administrative or judicial proceeding, no change shall be made to the pupil's classification, program, or placement unless both parties agree or emergency relief as part of a request for a due process hearing is granted by the OAL pursuant to this regulation or as provided in 20U.S.C. S1415 (k) (7).
11. Any party may appeal the decision of an ALJ in accordance with N.J.A.C. 1:6A-18.3.

H. Discipline/Suspensions/Expulsion

1. For disciplinary reasons, school officials may order the removal of a pupil with a disability from his/her current educational placement to an interim alternative educational setting, another setting, or a suspension without the provision of educational services for up to ten consecutive or cumulative school days in a school year. Such suspensions are subject to the same school district procedures as non-disabled pupil. However, at the time of removal, the building principal shall forward written notification, and a description of the reasons for such action to the case manager;

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2. Disciplinary action initiated by the school district which involves removal to an interim alternative educational setting, suspension of more than ten consecutive or cumulative school days in a school year or expulsion of a pupil with a disability, must be in accordance with 20 U.S.C. S1415 (k), as indicated in paragraph a. through i. below.

Disciplinary Actions

- a. School personnel may order a change in the placement of a pupil with a disability:
 1. To an appropriate interim alternative educational setting, or suspension, for not more than ten school days (to the extent such alternatives would be applied to children without disabilities); and
 2. To an appropriate interim alternative educational setting for the same amount of time that a pupil without a disability would be subject to discipline, but for not more than forty-five days if:
 - (a) The pupil carries a weapon to school, or to a school function under the jurisdiction of a State or local educational agency; or
 - (b) The pupil knowingly possesses or used illegal drugs or sells or solicits the sale of a controlled substance while at school, or a school function under the jurisdiction of a State or local educational agency.

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- b. Either before or not later than ten days after taking a disciplinary action described in paragraph (a) above:
 - (1) If the CST did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the pupil before the suspension described in paragraph (a) above, the case manager shall convene an IEP Team meeting to develop a behavioral intervention plan to address that behavior; or
 - (2) If the pupil already has a behavioral intervention plan, the IEP Team shall review the plan and modify it, as necessary, to address the behavior.

Change in Placement

- c. A hearing officer may order a change in the placement of a pupil with a disability to an appropriate interim alternative educational setting for not more than forty-five days if the hearing officer;
 - (1) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of such pupil is substantially likely to result in injury to the pupil or to others;
 - (2) Considers the appropriateness of the pupil's current placement;

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- (3) Consider whether the school district has made reasonable efforts to minimize the risk of harm in the pupil's current placement, including the use of supplementary aids and services; and
- (4) Determine that the interim alternative educational setting meets the requirements of paragraph d. (2) below.

Alternative Educational Setting

- d. The alternative educational setting described in subparagraph a. (2) above shall be determined by the IEP Team;

Any interim alternative educational setting in which a pupil is placed under paragraph a. or b. above shall:

- (1) Be selected so as to enable the pupil to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the pupil's current IEP, that shall enable the pupil to meet the goals set out in that IEP; and
- (2) Include services and modifications designed to address the behavior identified in paragraph H. (1) or paragraph H.2 so that it does not recur.

Mainstream Determination

- e. If a disciplinary action is contemplated as describes in paragraph H.1 or H. 2 above for a behavior of a pupil

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with a disability, or if a disciplinary action involving a change of placement for more than ten days is contemplated for a pupil with a disability who has engaged in other behavior that violated any rule or code of conduct of the school district that applies to all pupils, then:

- (1) Not later than the date which the decision to take that action is made, the parent (s), legal , policy; and
- (2) Immediately, if possible but no case later than ten school days after the date on which the decision to a take that action is made, a review shall be conducted of the relationship between the pupil's disability and the behavior subject to the disciplinary action.

f. A review described in subparagraph e. above shall be conducted by the IEP Team and other qualified personnel. In carrying out a review described in paragraph e. above, the IEP Team may determine that the behavior of the pupil was not a manifestation of such pupil's disability only if the IEP Team:

- (1) First considers, in terms of the behavior subject to disciplinary action, all relevant information including evaluation and diagnostic results, including such results or other relevant information supplied by the parent (s), legal guardian (s) and/or the adult pupil; observations of the pupil; and the pupil's IEP and placement; and
- (2) Then determines that;

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- (a) In relationship to the behavior subject to disciplinary action, the pupil's IEP and placement were appropriate and the; special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the pupil's IEP and placement;
 - (b) The pupil's disability did not impair the ability of the pupil to understand the impact and consequences of the behavior subject to disciplinary action; and
 - (c) The pupil's disability did not impair the ability of the pupil to control the behavior subject to disciplinary action.
- g. If the result of the review described in subparagraph e. above is determination that the behavior of the pupil with a disability was not a manifestation of the pupil's disability, the relevant disciplinary procedures applicable to pupils without disabilities may be applied to the pupil in the same manner which they would be applied to a pupil without disabilities, except as provided in 20 U.S.C. S1412 (a) (1). 20 U.S.C. S1412 (a) (1) requires the school district to provide a free appropriate public education to all children with disabilities between the ages of three and twenty-one, inclusive, including children with disabilities who have been suspended or expelled from school.

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- h. If the school district or other public agencies initiates disciplinary procedures applicable to all children, the school district shall ensure that the special education and disciplinary records of the pupil with a disability are transmitted for consideration.
- i. If the pupil's parent (s), legal guardian (s) and/or the adult pupil disagree with a determination that the pupil's behavior was not a manifestation of the pupil's disability, or with any decision regarding placement, the parent (s), legal guardian (s) and/or the adult pupil may request a hearing. The Superintendent or designee shall arrange for an expedited hearing in any case described in this regulation when requested by a parent (s), legal guardian and/or the adult pupil.
 - (1) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the school district has demonstrated that the pupil's behavior was not a manifestation of such pupil's disability consistent with the requirements of paragraph f. (1) and f. (2) above.
 - (2) In reviewing a decision under paragraph a. (2) to place the pupil in an interim alternative educational setting, the hearing officer shall apply the standards set out in paragraph c. above.
- j. When a parent (s), legal guardian (s) and/or the adult pupil requests a hearing regarding a disciplinary action described in paragraph c. above to challenge the interim alternative educational setting or the manifestation determination, the pupil shall remain in the interim alternative educational setting pending the decision of the hearing officer, or until the expiration of the time period provided for in paragraph a. (2) or c. whichever

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occurs first, unless the parent (s), legal guardian (s) and/or the adult pupil and the school district agree otherwise;

- (1) If a pupil is placed in an interim alternative educational setting pursuant to paragraph a. (2) above or paragraph c. above and the CST proposes to change the pupil's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the pupil shall remain in the current placement (the pupil's placement prior to the interim alternative educational setting), except as provided in paragraph f. (1) and f. (2);
- (2) If the IEP Team maintains that it is dangerous for the pupil to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, the school district may request an expedited hearing;
- (3) In determining whether the pupil 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 set out in paragraph c. above.

- k. A pupil who has been determined to be eligible for special education and related services, and who has engaged in behavior that violated any rule or code of conduct of the school district, including and behavior described in paragraph a. above, may assert any of the protections provided for in the law, this regulation or any related policy or regulation, if the school district had

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knowledge (as determined in accordance with this paragraph) that the pupil was a pupil with a disability before the behavior that precipitated the disciplinary action occurred.

- (1) The school district is deemed to have knowledge that a pupil is a pupil with a disability if the parent (s), legal guardian (s) and/or the adult pupil has expressed concern in writing (unless the parent (s), legal guardian (s) and/or the adult pupil is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to school personnel that the pupil is in need of special education and related services, if the behavior or performance of the pupil demonstrates the need for such services, if the parent (s), legal guardian (s) and/or the adult pupil has requested an evaluation of the pupil pursuant to federal or State laws, regulation and/or policy, or if the teacher of the pupil, or other personnel of the school district, has expressed concern about the behavior or performance of the pupil to school district administrators for special education;
- (2) If the school district does not have knowledge that a pupil is a pupil with disability (in accordance with paragraph k. (1) prior to taking disciplinary measures against the pupil, the pupil may be subjected to the same disciplinary measures as measures applied to pupils without disabilities who engaged in comparable behaviors consistent with paragraph (3) below.
- (3) If a request is made for an evaluation of a pupil during the time period in which the pupil is subjected to disciplinary measures under

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paragraph a. or b. conducted in an expedited manner. If the pupil with a disability, taking into consideration information from the evaluation conducted by the school district, and information provided by the parent (s), legal guardian (s) and/or the adult pupil, the school district shall provide special education and related services in accordance with the provision of the federal and State law, regulation and policy, except that, pending the results of the evaluation, the pupil shall remain in the educational placement determined by the school principal.

1. Nothing in this regulation shall be construed to prohibit the school district from reporting a crime committed by a pupil with a disability to appropriate authorities, or to prevent State or other law enforcement and judicial authorities, from exercising their responsibilities with regard to the application of federal and State law to crimes committed by a pupil with a disability;

When the school district reports a crime committed by a pupil with a disability, the school district shall ensure that copies of the special education and disciplinary records of the pupil are transmitted for consideration by the appropriate authorities to whom it reports the crime.

- n. For purposes of this regulation and the related policy, the following definitions apply:

- (1) **CONTROLLED SUBSTANCE**—The term “controlled substance” means a drug or other substance identified under schedules I, II, III, IV, in S202 (c) of the Controlled Substances Act (21 U.S.C. 812(c)).
- (2) **ILLEGAL DRUG**—The term “illegal drug”—
 - (a) Means a controlled substance; but

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- (b) Does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional, or that is legally possessed or
- (c) used under any other authority under that Act or under any other provision of federal law.
- (3) **SUBSTANTIAL EVIDENCE**—The term “substantial evidence” means beyond a preponderance of evidence.
- (4) **WEAPON**—The term “weapon” has the meaning given the term “dangerous weapon” under paragraph (2) of the first subsection (g) of S930 of Title 18, U.S.C.

I. Reimbursement for Unilateral Placement by Parents

1. Except as provided in N.J.A.C. 6A:14-6.1 (a), the Board is not required to pay for the cost of education, including special education and related services, of a pupil with disability if the school district made available a free, appropriate public education, and the parent (s), legal guardian (s) elected to enroll the pupil in a nonpublic school or approved private school for the disabled.
2. If the parent (s), legal guardian (s) of a pupil with a disability, and/or the adult pupil who previously received special education and related services form the school district of residence, enroll the pupil in a nonpublic or approved private elementary or secondary school without the consent of or referral by the school district, an ALJ may require that school district to reimburse the parent (s), legal guardian (s) and/or the adult pupil for the cost of that enrollment, if the ALJ finds that

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the school district had not made available a free appropriate public education available to that pupil in a timely manner prior to that enrollment.

3. The parent (s), legal guardian (s) and/or the adult pupil must provide notice to the school district of their concerns and their intent to enroll the pupil in a nonpublic school at public expense. The cost of reimbursement requested by the parent (s), legal guardian (s) and/or the adult pupil to be paid by the school district may be reduced or denied:
 - (a) If at the most recent IEP Team meeting that the parent (s), legal guardian(s) and/or the adult pupil attended prior to the removal of the pupil from the school district, the parent (s), legal guardian (s), and/or the adult pupil did not inform the IEP Team that they were rejecting the IEP proposed by the school district;
 - (b) At least the most recent IEP Team meeting that the parent (s), legal guardian (s) and/or the adult pupil attended prior to the removal of the pupil from the school district, the parent (s), legal guardian (s) and/or the adult pupil did not inform the IEP Team that they were rejecting the IEP proposed by the school district;
 - (c) If prior to the parent (s), legal guardian (s) removal of the pupil and/or the adult pupil's removal of him/herself from the public school, the school district proposed a reevaluation of the pupil and provided notice according to N.J.A.C. 6A:14-2.3 (e) and (f), but the parent (s), legal guardian (s) and/or the adult pupil did not make the pupil available for such evaluation; or
 - (d) Upon a judicial finding of unreasonableness with respect to actions taken by the parent (s), legal guardian (s) and/or the adult pupil.

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4. The cost of reimbursement for enrollment in a nonpublic school may not be reduced or denied if the parent (s), legal guardian (s) and/or the adult pupil failed to provide the required notice described in 3.a. and b. above if:
 - a. The parent (s), legal guardian (s) and/or the adult pupil is illiterate and cannot write in English;
 - b. Compliance with the notice requirements in 3.a. and b. above would likely result in physical and serious emotional harm to the pupil;
 - c. The school district prevented the parent (s), legal guardian (s) and/or the adult pupil from providing such notice; or
 - d. The parent (s), legal guardian (s) and/or the adult pupil had not received written notice in accordance with N.J.A.C. 6A:14-2.3 (e) and (f) of the notice requirements that is specified in 3.a. and b. above.

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1. The Child Study Team (CST), the parent (s), legal guardian (s) and /or the adult pupil and the regular education teacher who has knowledge of the pupil's educational performance or the district's programs shall:
 - a. Review existing data on the pupil, including evaluations and information provided by the parent (s), legal guardian (s) and/or the adult pupil, current classroom-based assessments and observations of teachers and related services providers, and consider the need for any health appraisals or specialized medical evaluation;
 - b. On the basis of the review in a. above, identify what additional data, if any are needed to determine:
 - (1) Whether the pupil has a disability under N.J.A.C. 6A:14 et seq.;
 - (2) The present levels of performance and education and related services;
 - (3) Whether the pupil needs special education and related services;
 - (4) Whether any additions or modifications to the special education and related services are needed to enable the pupil with a disability to meet annual goals set out in the Individualized Education Program (IEP), and to participate, as appropriate, in the general education curriculum; and

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- c. Determine which CST members and/or specialists shall conduct the evaluation.
2. Prior to conducting an initial evaluation, the school district shall request, and obtain consent to evaluate in accordance with N.J.A.C. 6A:14-3.3 (e).
3. After parental and/or legal guardian consent for initial evaluation of a preschool age or school age pupil, and/or the adult pupil's consent has been received, the evaluation, determination of eligibility for services under N.J.A.C. 6A:14 et seq., and if eligible, development and implementation of the IEP for the pupil shall be completed within ninety calendar days.

If initial evaluation of a preschool age child is warranted, the school district shall take steps to ensure that consent to evaluate is obtained without delay.
4. An initial evaluation shall consist of a multidisciplinary assessment in all areas of suspected disability. Such evaluation shall include assessment by at least two members of the CST, and other specialists in the areas of disability as required or as deemed necessary. Each evaluation of a pupil shall:
 - a. Include, where appropriate, or required the use of a standardized test (s) which shall be :
 - (1) Individually administered;
 - (2) Valid and reliable;
 - (3) Normed on a representative population; and

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- (4) Scored as either standard score with a standard deviation or normed referenced scores with a cutoff; and
- b. Include functional assessment of academic performance, and, where appropriate, behavior. Each of the following components shall be completed by at least one evaluator;
 - (1) A minimum of one structured observation by one evaluator in other than a testing session;
 - (a) In the case of a pupil who is suspected of having a specific learning disability, one evaluator shall observe the pupil's performance in the regular classroom;
 - (b) An interview with the pupil's parent (s), legal guardian (s) and/or the adult pupil;
 - (c) An interview with the teacher (s) referring the potentially disabled pupil;
 - (d) A review of the pupil 's developmental/educational history including records and interviews
 - (e) A review of interventions documented by the classroom teacher (s), and others who work with the pupil; and
 - (f) One or more informal measure (s) which may include, but not limited to: surveys and inventories, analysis of work, trial

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teaching, self report, criterion referenced tests, curriculum based assessments, and informal rating scales.

5. When the suspected disability is a disorder of articulation, voice of fluency in accordance with N.J.A.C. 6A:14-3.6 (e), the speech-language specialist shall:
 - a. Meet with the parent (s), legal guardian (s) and/or the adult pupil, and the regular teacher who is knowledgeable about the pupil's educational performance or the school district's programs to review existing data on the pupil, including evaluations and information provided by the parent (s), legal guardian (s) and/or the adult pupil, current classroom-based assessments and observations of teachers and related services providers;
 - b. Obtain consent to conduct the evaluation in accordance with N.J.A.C. 6A:14-3.3 (e) 5;
 - c. Conduct an assessment in accordance with 4. a. and b. above. The assessment shall include written information from the classroom teacher of the educational impact created by the speech problem. Such assessment fulfills the requirement for multi-disciplinary evaluations as required in 4. Above; and
 - d. Prepare a written report of the results in accordance with 6. below.
6. A written report of the results of each assessment shall be prepared. At the discretion of the school district, the written

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report may be prepared collaboratively by the evaluators, or each evaluator may prepare an individually written report of the results of his/her assessments. Each written report shall be dated and signed by the individual (s) who conducted the assessment and shall include:

- a. An appraisal of the pupil's current functioning and analysis of instructional implication (s) appropriate to the professional discipline of the evaluator;
- b. A statement regarding relevant behavior of the pupil, either reported or observed, and the relationship of that behavior to the pupil's academic functioning; and
- c. Documentation of the determination of eligibility, when a pupil is suspected of having a specific learning disability, shall include a statement to include the following:
 - (1) Whether the pupil has a specific learning disability;
 - (2) The basis for making the determination;
 - (3) The relevant behavior noted during the observation;
 - (4) The relationship of that behavior to the pupil's academic performance;
 - (5) Educationally relevant medical finding, if any;
 - (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and

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- (7) The determination concerning the effects of environmental, cultural or economic disadvantage.
7. The reports and assessments of other CST members or specialists from other public school districts, the New Jersey Department of Education, a Special Services School District, approved clinics or agencies, an Educational Services Commission or professionals in private practice may be submitted to the IEP Team for consideration. The IEP Team may accept or reject the entire report (s) or any part of the noted in writing, and become part of the report (s) of the district. If a report or part of a report is rejected, a written rationale shall be provided to the parent (s), legal guardian (s) and/or the adult pupil by the IEP Team.
8. By June 30th of a pupil's last year in a program for preschoolers with disabilities, a reevaluation shall be conducted, and if the pupil continues to be a pupil with a disability, the pupil shall be classified in accordance with N.J.A.C. 6A:14-3.5 or 3.6 (a).
9. Upon receipt of a written referral to the CST, the school nurse shall review and summarize available health and medical information regarding the pupil, and shall transmit the summary to the CST for the meeting in accordance with N.J.AC 6A:14-3.4 (a) 1 to consider the need for a health appraisal or specialized medical evaluation.

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SPECIAL EDUCATION – PUPIL RECORDS

Pupil Records

1. All pupil records shall be maintained in accordance with N.J.A.C. 6:3-6, and Policy and Regulation No. 8330.
2. The parent (s), legal guardian (s) and/or the adult pupil or their designated representative shall be permitted to inspect and review the contents of the pupil's records maintained by the school district under N.J.A.C. 6:3-6, and Policy and Regulation No. 8330 without unnecessary delay and before any meeting regarding the Individualized Education Plan (IEP).
3. Any consent required for pupils with disabilities under N.J.A.C. 6:3-6, and Policy and Regulation No. 8330 shall be obtained in accordance with N.J.A.C. 6A:14-1.3 and 2.3 (a) and (b).

Board of Education**Nutley****Program****Special Education-pg. 76****SPECIAL EDUCATION-PERSONNEL****A. Child Study Teams**

1. Child Study Team (CST) members, specialists in the area of disabilities, school personnel parent (s), legal guardian (s) and/or the adult pupil required in accordance with N.J.A.C. 6A:14 et seq. will be responsible for identification, evaluation, determination of eligibility, development and review of the Individualized Education Program (IEP) and placement.
2. A CST shall include a school psychologist, a learning disabilities teacher-consultant and a school social worker. All members of the CST shall be Board of Education employees, have an identifiable, apportioned commitment to the school district and shall be available during the hours pupil are in attendance.
3. Specialists in the area of disability may include, but not limited to, CST members, as well as speech-language specialists, occupational therapists, physical therapists, audiologists, school nurses, advance practice nurses and physicians who are appropriately certified and/or licensed to carry out activities under N.J.A.C. 6A:14 et seq. Where an educational certificate and/or a license are required to carry out activities under N.J.A.C. 6A:14 et seq., the professional must be certified and/or licensed.
4. CST members and, to the extent appropriate, specialists in the area of disability:
 - (a) Shall participate in the evaluation of pupils who may need special education programs and services in accordance with N.J.A.C. 6A:14-3.3 and 3.4.

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- (b) Shall participate in the determination of eligibility of pupils for special education programs and services in accordance with N.J.A.C. 6A:14-3.5;
- (c) May deliver appropriate related services to pupils with disabilities;
- (d) May provide preventive and support services to non-disabled pupils;
- (e) May provide services to the general education staff regarding techniques, materials and programs for pupils experiencing difficulties in learning. Services include, but not limited to, consultation with staff, parent (s), legal guardian (s) and/or the adult pupil and the design, implementation and evaluation of techniques to prevent and/or remediate educational difficulties.

B. Case Manager

1. A case manager shall be assigned to a pupil when it is determined that an initial evaluation shall be conducted. CST members or speech-language specialists when they act as members of the CST shall be designated to serve as the case manager for each pupil with a disability.
2. The case manager shall:
 - a. Coordinate the development, monitoring and evaluation of the effectiveness of the IEP;
 - b. Facilitate communication between home and school and coordinate the annual review and reevaluation process;
 - c. Be knowledgeable about the pupil's educational needs and program

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- d. Be knowledgeable about special education procedures and procedural safeguards;
- e. Have an apportioned time for case management responsibilities; and
- f. Be responsible for transition planning.

C. Providing Educational and Related Services

1. The school district, independently or through joint agreements, shall employ CST(s), speech correctionist (s) or speech-language specialist (s) and other school personnel in numbers sufficient to ensure provision of required programs and services pursuant to federal and State laws. Joint agreements for CST services may be entered into with other school districts, Educational Services Commissions, Jointure Commissions and Special Services school districts.

If the school district provides its educational program through another New Jersey public school district, responsibility for the requirements of this chapter shall be in accordance with the following:

2. The school district may contact with private clinics and agencies approved by the New Jersey Department of Education, private professional practitioners who are certified and licensed in accordance with State statutes and rules, agencies or programs that are certified, approved or licensed by the New Jersey Department of Human Services or by the New Jersey Department of Health and Senior Services for the following services:

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- a. For pupils attending the schools within the school district Independent CST evaluations in accordance with N.J.A.C. 6A:14-2.5 (b); CST diagnostic services to supplement existing local district services; the related services of occupational therapy and counseling; and home instruction.
 - b. For pupils attending nonpublic schools, the school district in which the facility is located may contract for evaluation, determination of eligibility, classification and the development of IEP; supplementary instruction, speech-language services and home instruction for pupils determined eligible for such services; and English as a Second Language in accordance with N.J.A.C. 6:31-1.4 and compensatory education in accordance with N.J.A.C. 6:8-1 for pupils eligible for such services.
3. The school district may purchase services listed under 2.a. and b. above from New Jersey Department of Education approved clinics and agencies with the prior written approval of the New Jersey Department of Education through its county office in accordance with the following:

A request for approval to purchase services shall include the proposed terms of the contract; the school district shall be notified of approval or disapproval; the approval shall be for one year; and the school district is not required to obtain prior written approval of the New Jersey Department of Education when contracting for an Independent CST evaluation in accordance with N.J.A.C. 6A:14-2.5 (c).
4. The school district may contract for medical diagnostic services with medical clinics and agencies approved by another New Jersey State agency or appropriate state agencies outside of

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4. New Jersey. These agencies do not have to obtain New Jersey Department of Education approval nor does the school district have to receive prior approval of the New Jersey Department of Education to purchase diagnostic medical services.
5. Any clinic or agency used by the school district shall be in conformance with the requirements of N.J.A.C. 6A:14-5.2.

Date Adopted:
June 28, 1999

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Dated:
June 28, 1999