

# Regulations

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### 2100 (R 2460) SPECIAL EDUCATION

School district officials and staff should adhere to all regulations included in N.J.A.C. 6A:14-1.1 et seq. and the following special education regulations:

- R 2460.1 Special Education – Identification, Location And Referral
- R 2460.5 Special Education – Exemption From Statewide Testing
- R 2460.7 Special Education – Free And Appropriate Public Education
- R 2460.8 Special Education – Transition From Early Intervention Programs to  
Preschool Programs
- R 2460.10 Special Education – Maintenance, Access to and Confidentiality of  
Student Records
- R 2460.14 Special Education – In-Service Training

The following definitions shall apply to all special education regulations:

#### 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 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 placed by the district Board of Education responsible 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.

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“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/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 a pupil with a disability or, if appropriate, that pupil’s family; and
6. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers or other individuals who may provide services to, employ, or are otherwise substantially involved in the major life functions of pupils with disabilities.

“Board of Education” means the school district of residence, the Board of trustees of a charter school, the State agency or other 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 (IEP) 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/her native language or other mode of communication;

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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/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)3, 2.3(i)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 (IEP). The members of 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” means an elementary or secondary school, other than a public school, within the State, providing education in grades kindergarten through twelve, or any combination of grades in which a pupil age five through twenty may fulfill compulsory school attendance and which complies with Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

“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, person 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.

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“Pupil” means a person age three through twenty-one who is entitled to receive educational programs and services in accordance with federal or 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. Pupils with disabilities attaining age twenty-one during the school year shall continue to be provided services for the balance of that school year.

“Pupil with a 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 disabilities in children, counseling services including 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.

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“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 specialist” means a speech correctionist or speech-language specialist.

“Transition services” means a coordinated set of activities for a pupil, designed within an outcome-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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### 2100 (R 2460.7) SPECIAL EDUCATION – FREE AND APPROPRIATE PUBLIC EDUCATION

A free and appropriate public education is available to all pupils with disabilities between the ages of three and twenty-one including pupils with disabilities who have been suspended or expelled from school.

Procedures regarding the provision of a free and appropriate public education to pupils with disabilities who are suspended or expelled are as follows:

1. School officials responsible for implementing suspensions/expulsions in the district are the following: (List school officials/designees by district organizational level.)
  - a. 9-12           Principal/Vice Principal  
Director of Special Services or designee
  - b. 7-8            Principal/Vice Principal  
Director of Special Services or designee
  - c. K-6            Principal, Director of Special Services
2. Each time a pupil with a disability is removed from his/her current placement for disciplinary reasons, notification of the removal is provided to the case manager by the Principal or designee.
3. Each Principal or designee will ensure that a system is in place to track the number of days a pupil with disabilities has been removed for disciplinary reasons
  - a. Pupil's name;
  - b. The infraction;
  - c. Time suspended; and
  - d. The cumulative days suspended including removal for a portion of the school day which is counted proportionately.

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4. When a pupil is suspended from transportation:
  - a. Suspension from transportation is not counted as a day of removal if the pupil attended school.
  - b. Suspension from transportation is counted as a day of removal if the school district does not make available an alternate means of transportation and the pupil does not attend school.
  - c. Suspension from transportation may be counted as a day of absence rather than a day of removal if the district made available an alternate means of transportation and the pupil does not attend school.
5. When a pupil with a disability participates in an in-school suspension program, the Principal or designee shall ensure that participation in the program is not counted as a day of removal if the program meets the following criteria:
  - a. The pupil has the opportunity to progress in the general curriculum,
  - b. Services and modifications specified in the pupil's IEP can be provided in the in-school suspension program,
  - c. Interaction with non-disabled peers to the extent they would have in the current placement, and
  - d. The pupil is counted as present for the time spent in the in-school suspension program.
6. When a series of short-term removals accumulate to more than ten school days in the year:
  - a. The Principal/Vice Principal or designee and the case manager will consult to determine whether the removals create a change of placement according to N.J.A.C. 6A:14-2.8(b)2.

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- b. If it is determined that there is no change in placement, the Principal/Vice Principal or designee and the case manager, and special education teacher will consult to determine the extent to which services are necessary to:
  - (1) Enable the pupil to progress appropriately in the general education curriculum;
  - (2) Advance appropriately toward achieving the goals set out in the Pupil's IEP; and
  - (3) Written documentation of the consultation and services provided is maintained in the pupil's file. (Attach any relevant forms).
  
- 7. When a disabled pupil is removed from his/her current placement for more than ten days and the removal does not constitute a change in placement, the case manager shall convene an IEP meeting to:
  - a. Review the behavioral intervention plan and its implementation;
  - b. Determine if modifications are necessary; and
  - c. Modify the behavioral intervention plan and its implementation as appropriate. The plan will be modified to the extent necessary if at least one member of the team determines that modifications are necessary.

The case manager will document the date and the outcome of the meeting.

The documentation will be placed in the pupil's file.

#### Procedures Regarding the Provision of a Free and Appropriate Public Education to Preschool Age Pupils with Disabilities.

To ensure that preschoolers with disabilities who are not participating in an early intervention program have their initial IEP's implemented no later than age three, a written request for an initial evaluation shall be forwarded to the district.

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The following procedures will be followed:

1. A parent of a preschool-age pupil suspected of having a disability, who requests a Child Study Team (CST) evaluation by telephone, will be advised to submit a written request for an evaluation to the Director of Special Services;
2. Upon receipt of the written request the request shall be dated and signed by the recipient;
3. A file will be initiated for the potentially disabled preschooler;
  - a. The case manager will convene a planning meeting within twenty calendar days (excluding school holidays but not summer vacation) of the date recorded on the request;
  - b. A "Notice of Planning Meeting" (Identification Meeting) will be sent to the parent(s);
  - c. The notice will contain "Parental Rights in Special Education" (PRISE) Booklet;
  - d. The meeting will be attended by the CST, including a speech language specialist, the parent(s), and a teacher who is knowledgeable about the district's program; and
  - e. A program shall be in place no later than ninety calendar days from the date of consent.

### Procedures Regarding the Provision of a Free, Appropriate Public Education to Pupils with Disabilities Who Are Advancing From Grade to Grade

The Department of Special Services through in-service training shall ensure pupils with disabilities who are advancing from grade to grade with the support of specially designed services, continue to be eligible when as part of a reevaluation, the IEP team determines the pupil continues to require specially designed services to benefit from education and progress in the general education curriculum; and the IEP team will use functional assessment information to support the determination to continue eligibility.

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### 2100 (R 2460.8) SPECIAL EDUCATION – TRANSITION FROM EARLY INTERVENTION PROGRAMS TO PRESCHOOL PROGRAMS

Children with disabilities participating in early intervention programs (EIP) assisted under IDEA Part C who will participate in preschool programs under N.J.A.C. 6A:14-1.1 et seq. Experience a smooth transition and that an Individualized Education Program (IEP) has been developed and is being implemented according to N.J.A.C. 6A:14-3.3(e).

Procedure for Child Study Team (CST) Member Attendance at the Transition Planning Conference.

1. The Nutley Public Schools will make available a CST member to attend the transition planning conference arranged by the EIP when notified.
2. The Nutley Public Schools will work collaboratively with the EIP to eliminate barriers regarding meeting times and locations.
3. School district officials shall adhere to all procedures contained in N.J.A.C. 6A:14-1.1 et seq. For transitioning children with disabilities from EIP to preschool programs.

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2100 (R 2460.10) SPECIAL EDUCATION – MAINTENANCE, ACCESS TO AND CONFIDENTIALITY OF STUDENT RECORDS

The compilation, maintenance, access to and confidentiality of student records are in accordance with N.J.A.C. 6:3-6.1 et seq.

Procedures to Assure Confidentiality and Access to the Individual Education Program (IEP)

1. The Principal/Director of Special Services shall assure that regular education teachers, special education teachers, and related services personnel with assigned educational responsibility have access to the pupil's IEP.
  - a. Personnel with assigned educational responsibility will have the right to view, to make notes, and/or have a reproduction of the IEP.
  - b. The Principal/Director of Special Services will assure that the IEP is kept confidential and is maintained according to N.J.A.C. 6:3-6.4(b) which states that pupil records for each individual pupil shall be maintained in a central file at the school attended by the pupil and when records are maintained in different locations, a notation in the central file as to where such other records may be found is required.
2. All procedures regarding access to pupil records and confidentiality indicated in Policy and Regulation No. 8330 Pupil Records will be followed.

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### 2100 (R2460.14) SPECIAL EDUCATION – IN-SERVICE TRAINING

The in-service training needs for professional and paraprofessional staff who provide special education, regular education or related services are identified and that appropriate in-service training is provided. The Director of Special Services shall maintain information to demonstrate the school efforts to:

1. Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities;
2. Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of students with disabilities that impedes the learning of students with disabilities and others;
3. Acquire and disseminate to teachers, administrators, school Board members, and related services personnel, significant knowledge derived from educational research and other sources and how the district will, if appropriate, adopt promising practices, materials and technology;
4. Ensure that the in-service training is integrated to the maximum extent possible with other professional development activities; and
5. Provide for joint training activities of parents and special education, related services and general education personnel. (34C.F.R. 300.380)

#### Procedures for Identifying and Meeting the Training Needs of Paraprofessionals, Professionals and Parents of Students with Disabilities

1. The Assistant Superintendent and Director of Special Services will conduct a needs assessment annually to identify the in-service training needs as part of districtwide development activities.

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2. Target populations will be identified by the needs assessment and will include at a minimum special education and regular education professionals, related services personnel, paraprofessionals and parents.
3. Trainings will be conducted annually.
4. When appropriate, the district will identify, adopt and disseminate promising practices, materials and technology based upon:
  - a. Individual needs of pupils in accordance with their respective IEP.
  - b. Significant knowledge derived from educational research and other reliable sources.
  - c. Collaborative work with institutions of higher learning or other entities that (on a per-service and an in-service basis) prepare personnel who work with children with disabilities to support quality professional development programs that meet identified state and local needs.
  - d. Technical assistance and professional development programs provided through NJDOE sources.
5. The effectiveness of the training will be evaluated/assessed through district and/or commercially developed surveys/forms.
6. Documentation of the needs assessment, training activities and evaluation procedures will be maintained for three years after the activities are completed.