

# Oceanside Union Free School District

## **SPECIAL EDUCATION TWO YEAR PLAN**

**DISTRICT POLICIES, PRACTICES AND  
PROCEDURES FOR ASSURING APPROPRIATE  
EDUCATIONAL SERVICES AND DUE PROCESS  
IN EVALUATION AND PLACEMENT OF STUDENTS  
WITH DISABILITIES**

**SEPTEMBER 2006 – AUGUST 2008**

**OCEANSIDE DISTRICT**

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## STATEMENT OF ASSURANCES

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

*In full support of State and Federal laws pertaining to students with disabilities, it is the intent of this Board of Education to assure that the educational needs of special education students are met. To this end, and in full compliance with the Regulations of the Commissioner of Education, the Board has reviewed this two-year District Plan for Special Education.*

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

Adopted: Allenby Lyson 1/9/07  
President, Board of Education Date

Adopted by the Board of Education on January 9, 2007

## AVAILABILITY OF COPIES OF THIS POLICY

*The District Special Education Plan is on file for review in the Office of Superintendent of Schools, the Special Education Office, and each of the District's public school buildings.*

*Board of Education policies with respect to special education records will be reviewed and revised, as needed.*

## Table of Contents

|  |    |
|--|----|
| SPECIAL EDUCATION PROGRAM OBJECTIVES.....  | 1  |
| IMPLEMENTATION OF SCHOOL-WIDE APPROACHES AND PRE-REFERRAL INTERVENTIONS .....  | 3  |
| DEFINITIONS.....   | 4  |
| SPECIAL EDUCATION PROGRAMS AND SERVICES: OVERVIEW.....   | 7  |
| PROVISION OF APPROPRIATE SPECIAL EDUCATION SERVICES TO ENABLE INVOLVEMENT AND PROGRESS IN THE GENERAL EDUCATION CURRICULUM ..... | 10 |
| CSE AND CPSE APPOINTMENT AND TRAINING .....  | 11 |
| COMMITTEE ON PRESCHOOL SPECIAL EDUCATION (CPSE).....   | 13 |
| CPSE CONTINUUM OF SERVICES.....  | 18 |
| COMMITTEE ON SPECIAL EDUCATION (CSE).....  | 21 |
| CSE CONTINUUM OF SERVICES .....  | 37 |
| ARRANGEMENT OF SPECIAL EDUCATION PLACEMENTS .....  | 40 |
| DECLASSIFICATION OF STUDENTS WITH DISABILITIES .....   | 41 |
| PROCEDURES FOR ASSESSING ENGLISH LANGUAGE LEARNERS .....   | 42 |
| EXTENDED SCHOOL YEAR (ESY) SERVICES.....   | 45 |
| ACCESS TO ASSISTIVE TECHNOLOGY DEVICES AND SERVICES .....  | 46 |
| EXEMPTION FROM FOREIGN LANGUAGE REQUIREMENT .....  | 47 |
| TRANSITION PLANNING SERVICES FOR STUDENTS WITH DISABILITIES .....  | 48 |
| VOCATIONAL ASSESSMENTS.....  | 50 |
| AGING OUT GUIDELINES.....  | 51 |
| PROCEDURES FOR AWARDING DIPLOMAS.....  | 52 |
| PROCEDURAL SAFEGUARDS .....  | 54 |
| INDEPENDENT EVALUATIONS.....   | 57 |
| SURROGATE PARENTS.....   | 59 |
| SPECIAL EDUCATION MEDIATION .....  | 61 |
| APPOINTMENT OF IMPARTIAL HEARING OFFICERS.....   | 63 |
| SPECIAL EDUCATION RECORDS: ACCESS AND CONFIDENTIALITY.....   | 66 |
| SCHOOL CONDUCT AND DISCIPLINE .....  | 73 |
| ACCESSIBILITY.....   | 80 |

|   |     |
|---|-----|
| SCREENING PROCEDURES .....  | 81  |
| GUIDELINES FOR PROVIDING PUBLIC SCHOOL SERVICES TO STUDENTS IN NON-PUBLIC SCHOOLS ..... | 82  |
| REIMBURSEMENT FOR UNILATERAL PLACEMENT IN A PRIVATE SCHOOL .....                        | 84  |
| CENSUS & REGISTER OF STUDENTS WITH DISABILITIES .....                                   | 85  |
| SPACE ALLOCATION FOR SPECIAL EDUCATION PROGRAMS .....                                   | 87  |
| METHODS FOR EVALUATING PROGRAM OBJECTIVES.....  | 88  |
| PLAN TO ENSURE AVAILABILITY OF INSTRUCTIONAL MATERIALS IN ALTERNATIVE FORMATS.....      | 89  |
| DISTRICT PROGRAMS & SERVICES.....   | 91  |
| DISTRICT SPECIAL EDUCATION CLASSES .....  | 96  |
| IDENTIFICATION OF STUDENTS WITH DISABILITIES .....                                      | 97  |
| SPECIAL EDUCATION BUDGET .....  | 100 |

## **SPECIAL EDUCATION PROGRAM OBJECTIVES**

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

- To ensure the establishment of a plan and policies for implementing school-wide approaches and pre-referral interventions in order to remediate a student's performance prior to referral to special education.
- To provide a free appropriate education in the least restrictive environment for resident children between the ages of three (3) and twenty-one (21) or until a regular high school diploma has been achieved by the student, whichever shall occur first.
- To ensure that students with disabilities have the opportunity to participate in District programs to the maximum extent appropriate to the need of each student, including access to general education curriculum and extracurricular programs and activities, which are available to all other students enrolled in the public schools of the District.
- To establish a Committee on Preschool Special Education (CPSE), a Committee on Special Education (CSE) and appropriate Subcommittees on Special Education for the purpose of evaluating students suspected of having disabilities and for placement of students with disabilities in appropriate programs. The CPSE and CSE will monitor the progress of all students with disabilities and will report annually to the Board of Education regarding the status of each student.
- To ensure effective communication and collaboration between the Committee on Special Education, the Committee on Preschool Special Education, school staff and District administrators, parents and community.
- To ensure that parents are advised of their due process rights and to establish procedures in this regard.
- To ensure that each preschool student with a disability residing in the District has the opportunity to participate in an appropriate preschool program or services.
- To provide for the establishment of administrative practices and procedures to ensure that parents have received and understand the request for consent for evaluation of a preschool student.
- To ensure the establishment of administrative policies, practices and procedures to implement the provisions of Section 200.6 (a) of the Commissioner's Regulations and to provide special services or programs, to the extent appropriate to the needs of the student, to enable the student to be involved in and progress in the general education curriculum.
- To provide the human and material resources necessary for the implementation of a continuum of programs and services to meet the academic, social, physical and management needs of students with disabilities.
- To provide, to the greatest extent appropriate, adaptation, and/or modification of instruction and materials to enable students with disabilities to benefit from instruction within the general education setting, whenever appropriate.

- To ensure that students with disabilities have access to the full range of general education programs and services to the extent appropriate to their individual needs and to provide them appropriate opportunities to earn a high school diploma in accordance with Section 100.5 of the Regulations of the Commissioner of Education.
- To ensure that instructional materials used in the schools are available in a usable alternative format for each student with a disability, in accordance with the student's educational needs.
- To ensure that a discipline code for student behavior is in place, while protecting the rights to continuity of appropriate education for students with disabilities.
- To ensure the confidentiality of personally identifiable data, information or records pertaining to a student with a disability. Such personally identifiable information will not be disclosed except in accordance with the Regulations.
- To ensure that adequate and appropriate space is made available to meet the needs of preschool and school-age students with disabilities.
- To provide professional development for all personnel who work with students with disabilities in order to assure that they have the skills and knowledge necessary to meet the unique needs of these students.
- To ensure the establishment of plans and policies for the appropriate declassification of students with disabilities.
- To ensure that measurable steps are taken to recruit, hire, train and retain highly qualified personnel to provide special education programs and services.
- To ensure the establishment of guidelines for the provision of appropriate accommodations necessary to measure the academic achievement and functional performance of students with disabilities in the administration of District-wide assessments.
- To ensure that universal design principles are used, to the extent feasible, in developing and administering any District wide assessment programs.
- To ensure that students who reside in the District have received the protection of all other applicable State and Federal laws and regulations.

## **IMPLEMENTATION OF SCHOOL-WIDE APPROACHES AND PRE-REFERRAL INTERVENTIONS**

In accordance with IDEA and Part 200 of the Commissioner's Regulations, the District must develop a policy and implement a plan to establish pre-referral interventions to assist a student's education process before consideration of referral to the Committee on Special Education (CSE). In keeping with this policy, it is the responsibility of the school's principal and building level team to investigate all possible avenues of general education support services that would enable the student to achieve the learning standards. Such services may include, but are not limited to, Academic Intervention Services (AIS) and Educationally Related Support Services (ERSS). These services must be afforded to all students who do not meet the minimum designated standards on State assessments, and to English Language Learners (ELL) who do not achieve the annual performance standards set in Commissioner's Regulations, Part 154. Supplemental instruction in English, language arts, math, social studies, and science, as well as support services to deal with barriers to student progress such as attendance, discipline, health, family nutrition, and transient issues will be afforded to students who score below level 3 on elementary or intermediate state assessments or who score below the local state designated performance levels on any one of the state examinations required for graduation.

All school-wide approaches to provide remediation activities for students who are at risk of not meeting state standards or graduation requirements will be considered prior to making referrals to the CSE. These approaches may also include, but are not limited to, extra teacher or teacher aide/assistant support, student or volunteer tutorial assistance, counseling support, and computer-assisted programs. The principal shall notify each student's parents whenever Academic Intervention Services are provided. These school-wide approaches serve as pre-referral interventions prior to consideration of special education programs through the CSE.

The referral form to the CSE used by the District staff will describe, in writing, intervention services, programs used to remediate the student's performance prior to referral, or instructional methodologies, including any supplementary aids or support services provided, or the reasons why no such attempts were made. The principal and/or building level team shall maintain a record of pre-referral interventions implemented for each student. Each referral shall be reviewed to determine its appropriateness and whether pre-referral interventions have been adequately utilized, and if further interventions are deemed necessary.

Within ten (10) days of receipt of referral to the CSE, the building administrator may request a meeting with the parent or person in parental relationship to the student, the student, and the referring person, if a staff member, to determine whether the student would benefit from additional general education support services as an alternative to special education. These services may include, but are not limited to, speech and language improvement services, educationally related support services, academic intervention services, and any other services designed to address the learning needs of the student and maintain the student's placement in general education. At this meeting, if there is a written agreement that with the provision of provision of additional general education support services the referral is unwarranted, the referral shall be deemed withdrawn and the building administrator shall provide a copy of this agreement to the Chairperson of the CSE, the referring person, the parent or person in parental relationship, and the student, if appropriate. The copy of the agreement will be in the native language of the parent and will name the additional general education support services that will be provided, as well as the length of time of each service. This agreement will be placed in the student's cumulative educational record file. If there is no written agreement reached at this meeting, the required timelines of the CSE will be maintained.

These pre-referral interventions will not be utilized as a barrier to prevent appropriate referrals for special education services, but shall be used to assess the ability of the student to benefit from general education services.

## **DEFINITIONS**

Students with disabilities are those whose special needs are significant enough to warrant provisions of special educational services in accordance with an individualized program. Effective October 30, 1990, Congress substituted the term “children with disabilities” for the term “handicapped children” in the Federal law establishing access to fair procedures and appropriate placements.<sup>1</sup>

*The following statutory and regulatory definitions are controlling:*

The term “**student with a disability**” means a student with a disability, who has not attained the age of 21 prior to September 1<sup>st</sup> and who is entitled to attend public schools pursuant to section 3202 of the Education Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires special services and programs approved by the Department of Education. Such term does not include a student whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. In making a determination as to eligibility, a student shall not be determined to be a student with a disability if the determinant factor is

- lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;
- lack of instruction in math; or
- limited English proficiency.

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

The term “**special education**” means specially designed individualized or group instruction or special services or programs, as defined in subdivision 2 of section 4401 of the Education Law, and special transportation, provided at no cost to the parent, to meet the unique needs of students with disabilities.

- Such instruction includes but is not limited to that conducted in classrooms, homes, hospitals, institutions and in other settings.
- Such instruction includes specially designed instruction in physical education, including adapted physical education.

The term “**specially-designed instruction**” means adapting, as appropriate to the needs of an eligible student under this Part, the content, methodology, or delivery of instruction to address the unique needs that result from the student’s disability, and to ensure access of the student to the general education curriculum, so that he or she can meet the educational standards that apply to all students.

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

The term “***special services or programs***” may include:

- Special classes, transitional support services, resource room, related services, consultant teacher services and home instruction.
- Contracts with other Districts for special services or programs.
- Contracts for special services or programs provided by Boards of Cooperative Educational Services (BOCES).
- Appointment by the Commissioner to a state or state-supported school in accordance with Article 85, 87, or 88 of New York State law.
- Contracts with private non-residential schools, which have been approved by the Commissioner and which are within the state.
- Contracts with private non-residential schools, which have been approved by the Commissioner and which are outside of the state.
- Contracts with private residential schools, which have been approved by the Commissioner and which are within the state.
- Contracts with private residential schools, which have been approved by the Commissioner and which are outside of the state.
- Provision of educational services in a residential facility for the care and treatment of students with disabilities under the jurisdiction of a state agency other than the state Department of Education.
- Contracts for residential or non-residential placements with a special act District listed in Chapter 566 of the Laws of 1967.
- Contracts with New York State approved and funded schools (Article 89).

“*Related services*” means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and appropriate support services and includes the early identification and assessment of disabling conditions in students. The term does not include a medical device that is surgically implanted, or the replacement of such device.

## Additional Definitions:

- “*Business day*” means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day).
- “*Change in placement*” means a transfer of a student to or from a public school, BOCES, or schools enumerated in articles 81, 85, 87, 88, or 89 of the Education Law or graduation from high school with a local high school or Regents diploma. For purposes of removal of a student with a disability from the student’s current education placement under Education Law 3214, change in placement is defined in Part 201 of the Regulations of the Commissioner of Education (December 2005).
- “*Committee on Special Education*” (CSE) means a multidisciplinary team established in accordance with the provisions of Section 4402 of the NYS Education Law and Part 200 of the Commissioner’s Regulations.
- “*Committee on Preschool Special Education*” (CPSE) means a multidisciplinary team established in accordance with the provisions of Section 4410 of the NYS Education Law and Part 200 of the Commissioner’s Regulations.
- “*Consent*” means:
  - the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought, and has been notified of the records of the student which will be released and to whom they will be released;
  - the parent understands and agrees in writing to the activity for which consent is sought; and
  - the parent is made aware that the consent is voluntary on the part of the parent and may be revoked at any time except that, if a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).
- “*General education curriculum*” means the same curriculum for all students, including students with disabilities.
- “*Individualized Education Program*” (IEP) means a written statement, developed, reviewed and revised in accordance with Section 200.4 of the Commissioner’s Regulations, which includes the specified components to meet the unique educational needs of a student with a disability.
- “*School day*” means any day (including a partial day) that students are in attendance at school for instructional purposes. The term “*school day*” has the same meaning for all students in school, including students with disabilities and students without disabilities except that, during the months of July and August, “*school day*” means every day except Saturday, Sunday and legal holidays. “*Days*” means calendar days unless otherwise indicated as school day or business day.

## **SPECIAL EDUCATION PROGRAMS AND SERVICES: OVERVIEW**

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

### **SCHOOL CALENDAR**

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

### **LEAST RESTRICTIVE ENVIRONMENT (LRE)**

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

- Placement shall be based on the student’s individualized education program and determined at least annually.
- Placement shall be as close as possible to the student’s home, and unless the student’s individualized education program requires some other arrangement, the student shall be educated in the school he or she would have attended if not disabled.
- In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the student or on the quality of services that he or she needs.
- A student with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

### **PROCEDURES TO IMPLEMENT LRE REQUIREMENTS**

- The student will receive a comprehensive, nonbiased, individual evaluation in his or her dominant language or other mode of communication, unless it is clearly not feasible to do so, to determine his/her educational needs. In making a determination of a student’s eligibility, the CSE shall not determine a student to be a student with a disability if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies; lack of instruction in math; or limited English proficiency. The CSE must review evaluation information to determine whether any additions or modifications to special education services are needed to enable the student to participate, as appropriate, in the general education curriculum.

- Prior to placement in special education, the CSE will ensure that the appropriateness of the resources of the general education program, including academic intervention services and educationally related support services, have been considered.
- A student's educational program will be developed with the meaningful involvement of the student's parent or guardian, teacher, and the student, when appropriate. The Committee will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. IDEA requires that not less than one of the student's regular education teachers must be a member of the CSE (if the student is, or may be, participating in the regular education environment). In addition, the representative of the District qualified to provide or supervise the provision of special education services must be knowledgeable about the general education curriculum and the availability of resources of the District. The individual knowledgeable about the evaluation data must be able to interpret the instructional implications of the evaluation results.
- The CSE or CPSE will first consider placement in general education with appropriate support for the student and the student's teachers. The IEP must include statements of the student's present levels of academic achievement and functional performance, including how the student's disability affects involvement and progress in the general education curriculum; or for preschool students, how the disability affects the child's participation in appropriate activities.
- The IEP will include measurable annual goals, including benchmarks or short-term objectives only for preschool students and students eligible for the New York State Alternate Assessment. These measurable annual goals must relate to meeting the student's needs that result from the disability to enable the student to be involved in and progress in the general curriculum and meeting each of the student's other educational needs that result from the disability.
- Alternative placements, such as special classes, special schools or other removal from the general education environment, will be considered only when the CSE/CPSE determines that a student's education in regular classes cannot be satisfactorily achieved even with the use of supplementary aids and services.
- The IEP of the student will include an explanation of the extent, if any, to which the student will not participate in regular education programs.
- The parent or guardian and the Board of Education will be provided a recommendation from the CSE/CPSE, which describes the program and placement options considered for the student and a rationale for those options not selected.
- The CSE/CPSE must indicate clearly defined expected benefits to the student from the special education program selected in the areas of academic achievement, functional performance and learning characteristics, social development, physical development and management needs.
- The CSE/CPSE will conduct an annual review of the student's needs for continuation or modification of the provision of special education programs and services. Such review shall consider the educational progress of the student and the student's ability to participate in general education programs.

The Oceanside District is committed to the policy of placing students in the least restrictive environment consistent with their needs. The District provides the full continuum of services as described in 200.6 of the Commissioner's Regulations.

### **SIMILARITY OF NEEDS**

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

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

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

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

Management Needs – The nature of and degree to which environmental modifications and human or material resources are required to enable the student to benefit from instruction. Management needs are determined in accordance with the factors identified in each of the three areas described above.

## **PROVISION OF APPROPRIATE SPECIAL EDUCATION SERVICES TO ENABLE INVOLVEMENT AND PROGRESS IN THE GENERAL EDUCATION CURRICULUM**

All students with disabilities who reside in the District shall be provided with an appropriate Individual Education Program (IEP) that meets his or her unique educational needs as determined and recommended by the Committee on Special Education (CSE) and arranged for by the Board of Education. This IEP shall be designed to enable involvement and foster progress in general education to the extent appropriate to the needs of the student. In designing the IEP, the CSE will consider the present levels of performance and the expected learning outcomes of the student. The student's academic, social development, physical development, and management needs will be the basis for written measurable annual goals.

In keeping with this policy, the CSE will consider general education, co-teaching (collaborative) classes at each initial, program or annual review for the student as well as the appropriate support or related services needed for the student to make educational progress within this environment. Progress or educational benefit shall be indicated by successful academic progress, including improvement in skills, achievement on State-mandated examinations, ability to perform activities of daily living and an increase in adaptive behavior. Progress will also be considered in the social areas, including relationships with peers and adults, feelings about self, and the adjustment to school and community environments. Physical development, including progress in motor or sensory areas, health, vitality and physical skills will be considered, as well as the level of management needs that require environmental modifications or human resources shall.

The District will ensure equal access to a diploma for all students with disabilities through its establishment of Regents classes, co-teaching (collaborative) classes and special education classes that provide equivalent instruction. Appropriate academic intervention services shall also be considered and determined by the building principal to assist students with disabilities in meeting their academic goals. These services shall be in addition to the special education services deemed appropriate by the CSE. No student, by virtue of designation as a student with a disability, shall be precluded from receiving equivalent instruction unless the CSE has determined that the student requires an IEP diploma program. If the student has the potential to achieve a regular high school diploma but requires a restrictive environment outside the District, the CSE will seek placement in a program that provides equivalent instruction.

The District will also ensure equal access for students with disabilities to after school activities such as clubs, sports, or evening activities and will provide, as recommended by the CSE, appropriate services to enable this participation. Students who are receiving education in out-of-district facilities, as recommended by the CSE, shall also have an equal opportunity to participate in these activities, as deemed appropriate to meet their individualized needs.

## **CSE AND CPSE APPOINTMENT AND TRAINING**

To implement its commitment to the education of students with disabilities, the Board of Education annually appoints a Committee on Special Education (CSE), Subcommittees on Special Education, and a Committee on Preschool Special Education (CPSE). The Committees are appointed in accordance with the provisions of New York Education Law, Sections 4402 and 4410 and Section 200.3 of the Regulations of the Commissioner of Education. Section 4410 of the Education Law, which established the CPSE, was signed into law on July 5, 1989, and the CPSE was established for the first time during the 1989/90 school year. Major functions of the CSE and CPSE include:

- Identifying, evaluating and recommending placement for students with disabilities;
- Assuring that appropriate due process safeguards are provided for each student;
- Maintaining an annually revised register of all students with disabilities who reside in the District and who are eligible to attend preschool or public school during the coming school year;
- Establishing a network for communication and sharing of resources with other educational and community service agencies;
- Reporting to the Board of Education on the adequacy and status of programs, services and facilities made available to school-age students with disabilities by the District, and, for preschool students, by public and private agencies within the County of Nassau;
- Reporting to the State Education Department on the number of preschool students, if any, within the District who are not receiving appropriate preschool services and the reasons for any such lack of service.

## **RESPONSIBILITIES**

The Committees have the responsibility to ensure that all necessary procedures for the identification, evaluation, classification, placement and annual review of the status and progress of every student with a disability are carried out in accordance with federal and state law and regulations. Subcommittees are authorized to perform the functions of the Committee on Special Education except when a student is considered for a more restrictive environment or initial placement in:

- a special class; or
- a special class outside of the student's school of attendance; or
- a school primarily serving students with disabilities in a school outside the student's District.

Upon receipt of a written request from a parent or legal guardian of a student, the subcommittee will immediately refer to the CSE for its review any recommendation of the subcommittee concerning the identification, evaluation, educational placement or provision of a free appropriate public education to a student that is not acceptable to the parent or person in parental relationship to the student.

The CSE is responsible for oversight and monitoring of the activities of each subcommittee to assure compliance with federal and state law and regulations. Each subcommittee must annually report the status of each student with a disability within its jurisdiction to the Committee.

## **TRAINING FOR CSE/CPSE MEMBERS**

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

- conducting District-based training on a regular basis and participating in CSE/CPSE training provided by the New York State Education Department;
- providing copies of written guidelines pertaining to District practices and procedures for referring and evaluating preschool and school-age students suspected of having a disability;
- disseminating all amendments to the Commissioner's Regulations and informational bulletins and pamphlets, including memorandum from SED, to all committee members;
- inviting committee members to annual site visits of special education placements to familiarize them with placement options available to resident special education students; and
- utilizing SETRC as a training resource; and
- utilizing the District's attorney as a resource person, if needed, to interpret specific information for the committee members.

## **GENERAL STAFF DEVELOPMENT**

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

In addition to staff meetings, in-service courses, Superintendent's Conference Day, as well as individual meetings between special and general education teachers, the State Education Department has directed Districts to include, as part of its professional development plan, a description of the professional development activities provided to all professional staff and supplementary school personnel who work with students with disabilities to assure that they have the skills and knowledge necessary to meet the needs of students with disabilities. The Oceanside District has a comprehensive program of professional development for all personnel and requires each staff member to participate in a specified number of hours of professional development workshops outside the regular school day. These workshops address a variety of topics including, but not limited to: instructional strategies, curriculum adaptations, disability awareness, co-teaching methodologies, behavior management, research-based interventions, differentiating instruction, applied behavior analysis, language acquisition, instructional technology, character education, family issues, nutrition and health, social skills development, etc.

For those teachers who are involved in the co-teaching (collaborative) program, ongoing staff training addresses the principles of inclusion and strategies for differentiating instruction and adapting/modifying curriculum for students with special needs. On-site training with consultants and behavior specialists is provided in areas related to learning strategies, co-teaching, behavior management, differentiating instruction, research-based interventions, and more.

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

### **CPSE Membership**

At its yearly organization meeting, the Board of Education shall appoint a Committee on Preschool Special Education comprised of at least the following mandated members:

- the parents of the preschool child;
- not less than one general education teacher of the child if the child is, or may be, participating in the general education environment;
- not less than one special education teacher or special education service provider of the child;
- the CPSE chairperson who is a representative of the District qualified to provide, or supervise the provision of specially-designed instruction to meet the unique needs of students with disabilities who is knowledgeable about the general education curriculum and about the availability of the resources of the local educational agency;
- an additional parent of a preschool or elementary school-age child with a disability who resides in the District or neighboring District, provided that such parent is not a required member if the parent(s) of the child request that the additional parent member not participate;
- an individual who can interpret the instructional implications of evaluation results, who may also be the individual appointed as the general education teacher, the special education teacher or provider, the school psychologist, or the District representative described above;
- other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the District or the parents shall designate. The determination of knowledge or special expertise of such person shall be made by the party who invited the individual to be a member of the CPSE.
- for a child in transition from early intervention programs and services, the appropriately licensed or certified professional from the Department of Health's Early Intervention Program; and
- a representative of the municipality is invited to attend, but not required for a quorum.

Consensus is the preferred decision-making process. Parents of the student being reviewed and other knowledgeable persons are encouraged to share information, including outside evaluations and reports with the Committee. Meetings of the CPSE are held in the Special Education Conference Room and other locations in the Administration Building, as needed, throughout the school year and during the summer months.

## **CPSE Eligibility Criteria**

“Preschool Student with a Disability” refers to a preschool student who has been identified by the Committee on Preschool Special Education (CPSE) who is eligible to receive preschool programs and services, and is not entitled to attend the public schools of the District. To be identified as having a disability, a preschool student shall either:

- exhibit a significant delay or disorder in one or more functional areas related to cognitive, language and communicative, adaptive, social-emotional or motor development which adversely affects the student’s ability to learn. Such delay or disorder shall be documented by the results of the individual evaluation which includes, but is not limited to, information in all functional areas obtained from a structured observation of a student’s performance and behavior, a parental interview and other individually administered assessment procedures, and, when reviewed in combination and compared to accepted milestones for child development, indicate:
  - a 12-month delay in one or more functional area(s), or
  - a 33 percent delay in one functional area, or a 25 percent delay in each of two functional areas, or
  - if appropriate standardized instruments are individually administered in the evaluation process, a score of 2.0 standard deviation below the mean in one functional area, or a score of 1.5 standard deviations below the mean in each of two functional areas; or
- meet the criteria set forth in Commissioner’s Regulations for students who are identified with Autism, Deafness, Deaf-Blindness, Hearing Impairment, Orthopedic Impairment, Other Health Impairment, Traumatic Brain Injury, or Visually Impairment.

“First Eligible for Services” is the earliest date on which a student becomes eligible for services as defined in current regulations. A student first becomes eligible for preschool programs and services on January 2<sup>nd</sup> of the calendar year in which the student becomes 3 years of age, provided the student’s birthday falls before July 1<sup>st</sup>, otherwise, a student first becomes eligible on July 1<sup>st</sup> in the calendar year, except that a student who, as of his or her 3<sup>rd</sup> birthday is already receiving services pursuant to the Family Court Act or Section 4204-a of the Education Law, may, if the parent so chooses, continue to receive such services through August 31<sup>st</sup> of the calendar year in which the student first becomes eligible to receive services pursuant to Section 4410 of the Education Law. A student shall be deemed to be a preschool student with a disability through the month of August of the school year in which the student first becomes eligible to attend school.

## **CPSE Referral**

The Committee on Preschool Special Education (CPSE) is responsible for arranging for the evaluation of any student who is suspected of having a disability, who meets the age eligibility requirements specified in the Regulations, and is a resident of the District. The evaluation process begins when a written request for evaluation is made by either:

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

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

## **CPSE Withdrawal of Referral**

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

## **CPSE Evaluation and Recommendation**

The individual evaluation of a preschool child shall include relevant functional and developmental information regarding the child's abilities and needs relating to participation in age-appropriate activities.

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

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

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory and to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills.

The CPSE will arrange for specialized evaluations where necessary. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time.

When completed, the evaluation reports will be submitted to the CPSE and a CPSE meeting will be scheduled. The parents will be provided with a copy of the summary reports prior to the meeting. The results of the evaluation will be provided to the parent in their native language or other mode of communication used by the parent, unless it is not feasible to do so.

Reasonable measures will be made to ensure that the parent attends the meeting. This means:

- A written notice is sent to the parent at least five days prior to advising them of the meeting. The parent may elect to receive the notice of meetings by an electronic mail (e-mail) communication if the District makes this option available.
- At least one additional attempt is made to notify the parents. This may mean additional written notice or a telephone call.
- The parent and the District may agree to use alternative means of meeting participation, such as conference telephone calls.

Prior written notice developed in accordance with Section 200.5(a) of the Part 200 Commissioner's Regulations, will be provided to the parents of a student with a disability a reasonable time before the District proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

Prior to making any recommendation that would place a child in an approved program of the agency that conducted the initial evaluation, the committee may, at its discretion, obtain a second evaluation of the child from another approved evaluator.

The CPSE submits a recommendation to the Board of Education and to the parent of the preschool student within thirty (30) school days of the date of the receipt of consent. If the Committee determines the student is ineligible for the special education, written notification will indicate the reasons for the finding. If the Committee determines that a student has a disability, an Individualized Education Program (IEP) is prepared, which specifies the nature of the disability, the student's current levels of functioning, including how the disability affects the student's participation in age-appropriate activities, measurable annual goals, including benchmarks or short-term objectives, and the type of special education program and/or services recommended. The CPSE will seek, in every case, to recommend placement in the least restrictive environment consistent with the needs of the student. If, for any reasons, the recommendation of the Committee differs from the preference of the parent, the report shall include the reasons for the Committee's recommendations. The notice will also

indicate that, in the event that the parent does not provide consent for placement, no further action will be taken by the CPSE until such consent is obtained.

### **CPSE Placement**

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

### **CPSE Annual Review**

An annual review is conducted for every preschool student who has been classified as having a disability. The purpose of the annual review is to determine the appropriateness of each student's Individualized Education Program (IEP) and the need to continue or modify the student's preschool special education program. This review considers the educational progress and achievement, the student's ability to participate in instructional programs in regular education and continued eligibility for special education services. Parents will receive a written notice, at least five (5) days prior to the meeting that indicates the time, date, location and persons expected to attend. Reasonable measures will be taken to ensure that the parent attends the meeting. This notice must also inform the parents that they may invite other persons to attend the meeting, who have knowledge or special expertise regarding the student.

## **CPSE CONTINUUM OF SERVICES**

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

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

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

12-month services may be considered to prevent substantial regression if the student presents with severe multiple disabilities, highly intensive management needs, need for habilitation and treatment in the home, and/or need for high degree of individualized attention.

### **RELATED SERVICES**

Related services, as defined in Section 4401 of Education Law and Section 200.6 of the Commissioner's Regulations, may include speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and appropriate support services and includes the early identification and assessment of disabling conditions in students. The term does not include a medical device that is surgically implanted, or the replacement of such device.

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

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

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

\*If the board determines that documented medical or special needs of the preschool student indicate that the student should not be transported to another site the student shall be entitled to receive related services in the preschool student's home.

## **SPECIAL EDUCATION ITINERANT SERVICES**

Special Education Itinerant Services are services provided by a certified special education teacher of an approved program on an itinerant basis at a site determined by the Board of Education including, but not limited to:

- an approved or licensed pre-kindergarten
- the work site of the provider
- a Head Start program
- a student's home \*
- a hospital
- a state facility
- a childcare location

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

The purpose of Special Education Itinerant Service is to provide direct and/or indirect service for preschool students with disabilities:

- **Direct Services:** Specialized individual or group instruction to a preschool student to aid the student from benefiting from the early childhood program.
- **Indirect Services:** Consultations provided by a certified special education teacher to assist the student's teacher in adjusting the learning environment or modifying instructional methods to meet the individual needs of a preschool student with a disability who attends an early childhood program.

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

## **INTEGRATED SPECIAL CLASS**

This is a special class of no more than twelve (12) preschool students which is staffed by at least one special education teacher and one paraprofessional. A special class in an integrated setting may be provided:

- In a class of no more than twelve preschool students with disabilities staffed by a special education teacher and a paraprofessional, which is housed in the same special space as a preschool class with non-disabled students taught by another teacher.

### **SPECIAL CLASS (Half or Full Day)**

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

- Chronological age range within special classes shall not exceed 36 months.
- Maximum class size shall not exceed 12 preschool students with at least one teacher and one paraprofessional.
- Services provided not less than 2 ½ hours per day, 2 days per week.

### **RESIDENTIAL SPECIAL EDUCATION PROGRAMS AND SERVICES**

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

## **COMMITTEE ON SPECIAL EDUCATION (CSE)**

### **CSE Membership**

At its yearly organization meeting, the Board of Education shall appoint a Committee on Special Education comprised of at least the following mandated members:

- the parents or persons in parental relationship to the student;
- not less than one general education teacher of the student if the student is, or may be, participating in the general education environment;
- not less than one special education teacher or special education service provider of the student;
- a school psychologist;
- the CSE chairperson who is a representative of the District qualified to provide, or supervise the provision of, specially-designed instruction to meet the unique needs of students with disabilities, who is knowledgeable about the general education curriculum and about the availability of the resources of the local educational agency. Such individual may also be the individual appointed as the special education teacher or special education provider to the student or the school psychologist;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the regular education teacher, special education teacher or provider, the school psychologist, or District representative described above. Such individual may also be the individual appointed as the special education teacher or special education, the school psychologist, or the representative of the District;
- the school physician, if specifically requested in writing by the parent of the student or by a member of the school at least 72 hours prior to the meeting;
- an additional parent of a student with a disability who resides in the District or a neighboring District, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years. Such parent is not a required member if the parent(s) of the student request that the additional parent member not participate in the meeting;
- other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the District or the parents shall designate; and
- if appropriate, the student.

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

Written notice of meetings is provided to the parents at least five days in advance of the meeting date. Meetings of the CSE are held in the CSE Conference Room and in the school buildings, as needed, throughout the calendar year.

## **Membership of the Subcommittee on Special Education**

Subcommittees are utilized, as appropriate and in accordance with Commissioner's Regulations, to conduct reviews, including three-year re-evaluations and annual reviews. The Subcommittee consists of the following members appointed by the Board of Education:

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

## **Definitions: "Student with a Disability"**

The term "student with a disability" includes the following classifications:

- (1) *Autism* means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age 3, which adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disturbance as defined in the definition of *Emotional Disturbance*. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.

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

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

- (5) *Hearing impairment* means impairment in hearing, whether permanent or fluctuation, which adversely affects the child's educational performance but that is not included under the definition of deafness in this section.
- (6) *Learning disability* means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. This term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural or economic disadvantage.
- (7) *Mental retardation* means significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.
- (8) *Multiple disabilities* means concomitant impairments (such as mental retardation, blindness, mental retardation-orthopedic impairments, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.
- (9) *Orthopedic impairment* means a severe orthopedic impairment that adversely affects a student's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis,

bond tuberculosis, etc), and impairments from other causes (e.g., cerebral palsy, amputation, and fractures or burns which cause contractures).

- (10) *Other health-impairment* means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems, including but not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, attention deficit disorder or attention deficit hyperactivity disorder or tourette syndrome, which adversely affects a student's educational performance.
- (11) *Speech or language impairment* means a communication disorder, such as stuttering, impaired articulation, a language impairment or a voice impairment that adversely affects a student's educational performance.
- (12) *Traumatic brain injury* means an acquired injury to the brain caused by an external physical force or by certain medical conditions such as stroke, encephalitis, aneurysm, anoxia or brain tumors with resulting impairments that adversely affect educational performance. The term includes open or closed head injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not include injuries that are congenital or caused by birth trauma.
- (13) *Visual impairment including blindness* means impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

<sup>1</sup> Legal Reference: Regulations of the Commissioner of Education, Section 200.1 (December 2005)

## **CSE Referral**

In accordance with New York Education Law Section 4402 and Part 200.2, 200.4 and 200.5 of the Commissioner's Regulations, the CSE is responsible for evaluating all school-age students suspected of having a disability, identifying a disability or determining that no disability exists, and recommending placement and type of special education programs and/or services within sixty (60) days of the date of receipt of consent for evaluation. Referrals can be made at any time during the twelve-month year.

A student suspected of having a disability shall be referred in writing to the chairperson of the CSE or to the building administrator of the school which the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs or services. A referral may be made by:

- a student's parent, guardian or person in parental relationship including an individual so designated who is acting in the place of a birth or adoptive parent including a grandparent, stepparent, or other individual with whom the child resides;
- a professional staff member of the District or the public or private school the student legally attends;
- a licensed physician;
- a judicial officer;
- the commissioner or designee of a public agency with responsibility for the welfare, health or education of children; or
- for purposes of referring one's self, a student who is 18 years of age or older, or an emancipated minor, who is eligible to attend the public schools of the District.

All new entrants to the District are screened at the time of enrollment and such screening, if it indicates a possible disability, may lead to a CSE referral.

Except for self-referrals and referrals by parents or judicial officers, the referral must state the reasons for the referral and include any test results, records or reports upon which the referral is based. It must also describe efforts made by school and parent to resolve the difficulties leading to referral or to meet the needs of the student in the general classroom setting, including intervention services, programs or instructional methodologies used to remediate the student's performance prior to the referral. If a referral is received by the building administrator, it must be forwarded to the CSE Chairperson immediately. If a referral is received by the CSE Chairperson, a copy will be forwarded to the building administrator within five business days of its receipt.

The Committee will notify the parent or persons in parental relationship to the student that a referral for an evaluation has been received and will request consent for the evaluation. The parent will be provided with information regarding the evaluation, the procedural safeguards notice which includes a listing of free or low-cost legal and other relevant services in the area, sources to obtain assistance in understanding the referral and evaluation process, and a copy of A Parent's Guide to Special Education. Translations are provided to assist parents as needed.

## **CSE Withdrawal of Referral**

Within ten (10) business days following receipt of CSE referral or copy of a referral, the building principal may decide to meet with the parent/guardian and/or student to discuss educational services presently being offered and to determine whether the student would benefit from additional general education support services as an alternate to special education, including the provision of

Educationally Related Support Services, Speech/Language Services, Remedial Instruction, and Academic Intervention Services. The professional staff member who made the referral should also attend this meeting. If at the meeting, the parent or person in parental relationship and the building administrator agree in writing that, with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide the chairperson of the Committee on Special Education, the person who made the referral if a professional staff member of the District, the parent or person in parental relationship to the student, and the student, if appropriate, with copies of the agreement. All such agreements about withdrawal of a CSE referral must be in writing and must specify the alternative services to resolve the identified learning difficulty of the student and provide the opportunity for a follow-up conference within an agreed period of time to review the student's progress. A copy of the agreement becomes a part of the student's cumulative educational record. A copy of the agreement must be in the native language of the parent or person in parental relationship.

If the referral to the CSE is not withdrawn by agreement, and the parent/guardian does not consent to the evaluation within thirty (30) days of the date of receipt of referral, the Chairperson of the CSE shall document attempts made by the Chairperson or other representatives of the committee to obtain parental consent and shall notify the Board of Education that they may utilize due process to permit the District to conduct an evaluation of the student without the consent of the parent.

### **CSE Evaluation and Recommendation**

The initial evaluation will consist of procedures to determine whether a student is a student with a disability and to determine the educational needs of such a student. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education. The evaluation will include a variety of assessment tools and strategies, including information provided by the parent to gather relevant functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability and the content of the student's individualized education program, including information related to enabling the student to participate and progress in the general education curriculum.

The individual evaluation of the referred student must include, at no cost to the parent, at least:

- a physical examination;
- an individual psychological examination, except when a school psychologist determines after an assessment of a school age student that further evaluation is unnecessary. Whenever a psychologist determines that a psychological evaluation is unnecessary, the psychologist will prepare a written report of such assessment, including a statement of the reasons the evaluation is unnecessary, which shall be reviewed by the committee;
- an observation of the student in the current educational setting;
- a social history;
- other appropriate assessment or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.

The initial evaluation to determine if a student is a student with a disability must be completed within 60 days of receiving parental consent for the evaluation. The 60-day timeframe shall not apply if:

- a student enrolls in a school served by the District after the relevant timeframe in this paragraph has begun and prior to a determination by the student's previous school district as to whether the student is a student with a disability, provided the District is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent District agree to a specific time when the evaluation will be completed; or
- the parent of a student repeatedly fails or refuses to produce the student for the evaluation.

The District will ensure that:

- assessments and other evaluation materials used to assess a student:
  - (a) are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;
  - (b) are used for purposes for which the assessments or measures are valid and reliable;
  - (c) are administered by trained personnel in accordance with the instruction provided by those who developed such assessments; and
  - (d) are selected and administered so as not to be discriminatory on a racial or cultural basis;
- tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a general intelligence quotient;
- tests are selected and administered to ensure that, when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, except where those skills are factors which the test purports to measure;
- materials and procedures used to assess a student with limited English proficiency be selected and administered to ensure that they measure the extent to which the student has a disability or needs special education, rather than measure the student's English language skills;
- no single measure or assessment is used as the sole criterion for determining whether a student is a student with a disability or for determining an appropriate educational program for a student;
- the evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or the specialist with certification or knowledge in the area of the suspected disability;
- the evaluation is sufficiently comprehensive to identify all of the student's special education needs, whether or not commonly linked to the disability category in which the student has been identified;
- technically sound instruments are used that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors;

- assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the student;
- the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities;
- students age twelve (12) and those referred to special education for the first time who are age twelve (12) and over, shall receive an assessment that includes a review of school records and total assessments, and parent and student interview to determine vocational skills, aptitude and interests;
- the results of the evaluation are provided to parents or persons in parental relationships in their native language or mode of communication unless it is clearly not feasible to do so;
- assessments of students with disabilities who transfer from one District in the same academic year are coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible to ensure prompt completion of full evaluations; and
- no student shall be required to obtain a prescription for a drug or other substance as a condition of receiving an evaluation.

Existing evaluation data on the student will be reviewed, including evaluations and information provided by the child's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observation.

The CSE will arrange for specialized evaluations where necessary, using appropriate resources outside of the District. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, vocational evaluations and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time. The CSE shall maintain a list of appropriate resources and certified professionals for this purpose.

When an evaluation is completed, a CSE meeting is scheduled. Reasonable measures will be taken to ensure that the parent attends the meeting. This means:

- a written notice will be sent to parents at least five days prior advising them of the meeting. The parent may elect to receive the notice of meetings by electronic mail (e-mail) communication if the District makes this option available.
- at least one additional attempt will be made to notify the parents. This may mean additional written notice or a telephone call.
- the parent and the District may agree to use alternative means of meeting participation, such as videoconferences and conference telephone calls.

## CSE Eligibility Determination

When an evaluation is completed, the committee, including the parent and, if appropriate, the student, meets to review the evaluation information to determine eligibility for special education and, if appropriate, develop an Individualized Education Program (IEP). The CSE will consider evaluation information including evaluations provided by the parent. The CSE must ensure that all general education resources including educationally related support services and academic intervention services have been considered prior to determining that the student should receive special education services. In making a determination of eligibility for special education and related services, a student shall not be identified as a child with a disability if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies, lack of instruction in math or limited English proficiency. In determining whether a student has a learning disability, the District may use a process that determines if the student responds to scientific, research-based intervention as part of the evaluation procedures. The District is not required to consider whether a student has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation or mathematical reasoning. A student with a disability remains eligible to receive special education services even if the student is advancing from grade to grade.

The CSE will ensure that parents receive and understand all evaluation reports and documentation of eligibility in their native language, including the results of required evaluations when the student is determined no longer to be eligible for special education. Whenever feasible, the evaluation results are shared with the parents before any meeting to discuss the identification, evaluation or educational placement of the student. Consensus is the preferred decision making process.

When evaluations are conducted for the purpose of determining a student's eligibility or continuing eligibility for special education, the CSE must give a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent. The results of the evaluation will be provided to the parent in their native language or other mode of communication.

If the committee determines that the student is **ineligible** for special education:

- The committee will provide notice to the parent of the recommendation. The parent will receive procedural safeguards, a copy of the evaluation report and the documentation of determination for ineligibility.
- The committee will provide a copy of the recommendation and appropriate evaluation information to the building administrator for consideration of educationally related support services to address student's needs.
- The committee will provide the recommendation to the Board of Education.

If the student has been receiving special education services, but it is determined by the Committee on Special Education that the student **no longer needs special education** services and can be placed in a regular education program on a full-time basis, the recommendation shall:

- identify the declassification support services, if any, to be provided to the student, and/or the student's teachers; and

- indicate the projected date of initiation of the services, the frequency of provision of the services, provided that these services shall not continue for more than one year after the student enters the full-time regular education program.

If the committee determines that the student is **eligible** for special education, the committee will:

- develop a written recommendation (IEP);
- document least restrictive environment considerations; and
- document special considerations for students whose behavior impedes learning, students who are deaf or hard of hearing, students who are blind or visually impaired, students with limited English proficiency and students who need assistive technology devices or services.

The committee will provide written notice to parents, which includes:

- a recommendation, including options considered and a rationale for rejecting those options not selected;
- a copy of the evaluation report and the documentation of determination of eligibility;
- procedural safeguards notice; and
- request parental consent for initial placement (including, if appropriate, initial recommendation for twelve (12) month programs and services).

The committee will also provide notice to the Board of Education.

If the committee determines that the student is **eligible** for special education, an IEP is prepared. In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent evaluation; the student's strengths; the concerns of the parents; the academic, developmental and functional needs of the student including, as appropriate, the results of the student's performance on any general State or District-wide tests; and other factors unique to the student's disability.

The IEP indicates the classification of the disability, the recommended placement and/or services, and includes a statement of:

- the student's present level of academic achievement, functional performance and individual needs in academic, social, physical and management areas, including how the disability affects the child's involvement and progress in the general education curriculum;
- measurable annual goals, which will include the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal during the period beginning with placement and ending with the next scheduled review by the committee;
- the frequency of periodic reports to the student's parents on the progress the student is making towards the annual goals, such as through the use of quarterly or other periodic reports that are concurrent with the issuance of report cards;
- for a student who takes a New York State Alternate Assessment and for each preschool student with a disability, the IEP will include a description of the short-term instructional objectives and/or

benchmarks that are the measurable intermediate steps between the student's present level of performance and the measurable annual goal;

- special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for the child to advance appropriately toward attaining annual goals, to be involved and progress in general education curriculum, and to be educated and participate in activities with other students with and without disabilities;
- the recommended program and services shall, to the extent practicable, be based on peer-reviewed research;
- the general education classes in which the student will receive consultant teacher services;
- a statement of supports for school personnel on behalf of the student;
- the extent to which the student's parents will receive parent counseling and training, when appropriate;
- any assistive technology devices or services needed for the student to benefit from education, including the use of the devices in the student's home or in other settings;
- the extent, if any, to which the student will **not** participate with non-disabled students in the general education class and in other activities;
- If a student is not participating in a regular physical education program, the extent to which the student will participate in specially designed instruction in physical education, including adapted physical education;
- If the student will participate in an alternate assessment on a particular State or District-wide assessment of student achievement, the IEP shall provide a statement of why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student;
- a statement of any individual testing accommodations to be used consistently for the student in the recommended educational program and in the administration of District-wide assessments of student achievement, and in accordance with department policy, State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student; and
- the projected date for the initiation of special education, related services and modifications, the anticipated frequency, location, and duration of those services and the projected date of review of the student's need for such services.

For those students beginning not later than the first IEP to be in effect when the student is age 15, and at a younger age, if determined appropriate, and updated annually, the IEP shall include:

- a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities;

- appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;
- a statement of the transition service needs of the student that focuses on the student's course of study, such as participation in advanced-placement courses or a vocational education program;
- needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
- a statement of the responsibilities of the District and, when applicable, participating agencies for the provision of such services and activities that promote from school to post-school opportunities, or both, before the student leaves the school setting.

In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent evaluation, the student's strengths, the concerns of the parents, the results of the student's performance on any general state or District-wide tests, and other factors unique to the student's disability.

At the beginning of each school year, the special education teacher or provider meets with all general education teachers to discuss each student's IEP and review the modifications and adaptations that may need to be made for each student. Each regular education teacher is provided with a paper or electronic copy of the IEP and informed of his or her responsibility to implement the recommendations on the student's IEP. Teachers need to be aware of each student's area of disability, test accommodations, special needs with regard to specialized equipment, such as enlarged print, taped textbooks, or use of a calculator, and any other special accommodations as stipulated in the IEP.

### **Consideration of Special Factors**

The CSE shall:

- (1) in the case of a student 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;
- (2) in the case of a student with limited English proficiency, consider the language needs of the student as such needs relate to the student's IEP;
- (3) in the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the CSE determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or use of Braille is not appropriate for the student;
- (4) consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs,

including opportunities for direct instruction in the student's language and communication mode;

- (5) consider whether the student requires assistive technology devices and services, including whether the use of school-purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education;
- (6) include a statement in the IEP if, in considering the special factors listed above, the committee has determined a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.

### **IEP Implementation, Distribution and Placement**

Within sixty (60) school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within sixty (60) school days of the referral for review of the student with a disability, the Board of Education shall arrange for appropriate special programs and services. If a recommendation is for placement in an approved in-state or out-of-state private school, the Board shall arrange for such programs and services within thirty (30) school days of the Board's receipt of the recommendation of the committee. Notice of the recommendation will be provided to the parent, including procedural safeguards notice. If on review of the recommendation of a committee on special education or a subcommittee on special education, the Board of Education disagrees with such recommendation, in accordance with Commissioner's Regulations, Part 200.4(e)(2), the Board may::

- remand the recommendation to the committee or subcommittee with a statement of the board's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns; or
- establish a second committee or subcommittee to develop a new recommendation for the student. If the Board disagrees with such new recommendation, the Board may remand the recommendation to such second committee or subcommittee with a statement of the Board's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns.

The CSE must ensure that:

- each student with a disability has an IEP in effect at the beginning of each school year;
- each general education teacher, special education teacher, related service provider, and other service provider who is responsible for the implementation of a student's IEP, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP;
- supplemental support personnel and other providers responsible for assisting in the implementation of a student's IEP, have the opportunity to review a copy of the student's IEP prior to the implementation of the program, and have ongoing access to a copy of the IEP;
- each regular and special education teacher, related service provider, other service provider, teacher assistant, aide, and other provider and support staff person has been informed, prior to the implementation of the IEP, of his or her specific responsibilities related to implementing

the student's IEP and the specific accommodations, program modifications, supports and/or services that must be provided for the student in accordance to the IEP; and

- a copy of the IEP is provided at no cost to the student's parents.

The District must provide special education and related services to a student with a disability in accordance with the student's IEP and make a good faith effort to assist the student to achieve the annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.

### **Transfer Students**

**Transfer within New York State:** In the case of a student with a disability who had an IEP that was in effect in NYS and who transfers from one District and enrolls in our District within the same academic year, the District shall provide the student with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents, until such time as the District adopts the previously held IEP or develops, adopts and implements a new IEP.

**Transfer from outside New York State:** In the case of a student with a disability who transfers Districts within the same academic year, who enrolls in a new District and who had an IEP that was in effect in another state, the District shall provide the student with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents, until such time as the District conducts an evaluation, if determined to be necessary by the District, and develops a new IEP if appropriate.

## **CSE Annual Review, Reevaluation and Declassification**

The IEP of each student with a disability shall be reviewed, and if appropriate, revised, periodically, but not less than annually to determine if the annual goals for the student are being achieved. Parents are notified by mail of the meeting; reasonable measures are taken to ensure that the parent attends the meeting. This review is conducted to determine the child's present levels of performance and educational needs, continued eligibility and need for special education service, and whether any modifications or additions to the special education and related service program are needed to enable the child to meet the measurable annual goals of the IEP.

The annual review will consider the:

- strengths of the student;
- concerns of the parents for enhancing the education of their child;
- results of the most recent evaluations including, as appropriate,
- results of any general State or District-wide assessments;
- student's academic, developmental and functional needs; and
- educational progress and achievement of the student and the student's ability to participate in instructional programs in regular education and in the least restrictive environment.

The CSE must obtain informed parental consent prior to conducting any new test or assessment as part of a reevaluation of a student with a disability, except that informed parent consent need not be obtained if the District can demonstrate that it took reasonable measures to obtain such consent and the student's parent failed to respond. Reasonable measures will be defined as at least one telephone contact attempted and one additional note sent home either via mail or with the student. If the parent refuses consent, the District must resolve the matter through a mediation agreement or an impartial hearing before conducting the new test or assessment as part of the reevaluation.

As part of any reevaluation, a review of existing evaluation data, including evaluations and information provided by the student's parents, current classroom-based assessments, local or State assessments, classroom-based observations, and teacher and related service provider's observations, is conducted to determine what additional data, if any, is needed. This review shall not constitute a CPSE/CSE meeting. If no additional data is needed to determine whether the student continues to be a student with a disability, the parents are notified of the determination and the reasons for it. The parent is notified of the right to request an assessment and that the District is not required to conduct such an assessment unless requested by the student's parents.

The CSE will arrange for an appropriate reevaluation of each student with a disability if the District determines that the educational or related service needs, including improved academic achievement and functional performance of the student warrant a reevaluation, or if the student's parent or teacher requests a reevaluation, but not more frequently than once a year, unless that parent and representative of the District appointed to the CSE agree otherwise. A reevaluation shall take place at least once every three years and will be conducted by a multidisciplinary team or group of persons, including at least one teacher or other specialists with knowledge in the area of the student's disability. The triennial evaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education. The results of any reevaluations must be addressed by the committee on special education in a meeting to review and,

as appropriate, revise the student's IEP. To the extent possible, the District shall encourage the consolidation of reevaluation meetings and other committee on special education meetings for the student. When evaluations are conducted with the purpose of determining continuing eligibility for special education, the CSE will provide a copy of the evaluation report and the documentation of the determination of eligibility to the student's parent.

Amendments to an IEP made after annual review by the CSE may be made by rewriting the IEP or by developing a written document to amend or modify the student's current IEP. The parents shall receive prior written notice of any changes to the IEP as well a copy of the document that amend or modifies the IEP. Upon request, that parent will be provided with a revised copy of the entire IEP with the amendments incorporated.

Before determining that a student is no longer eligible to receive special education services, an evaluation needs to be conducted. When the CSE determines that a student no longer requires special education services, the Committee may recommend declassification support services to the student for no more than the first year in regular education. Such services may include psychological, social work, speech and language services, non-career counseling, or the assistance of an aide or consultant to the classroom teacher. Continuation of test modifications upon declassification is not automatic. The CSE may determine the test modifications previously documented in a student's IEP must continue to be consistently provided to the student for the balance of his or her public school education. The District is not required to conduct a reevaluation of a student before the termination of a student's eligibility due to graduation with a local high school or Regent's diploma or exceeding the age eligibility for a free appropriate public education, but is required to provide the student with a summary of his or her academic achievement and functional performance, which includes recommendations on how to assist the student in meeting his or her post-secondary goals.

## **CSE CONTINUUM OF SERVICES**

### **TRANSITIONAL SUPPORT SERVICES**

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

### **CONSULTANT TEACHER SERVICES**

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

- Each student with a disability requiring consultant teacher services shall receive direct and/or indirect services consistent with the student's IEP for a minimum of two hours each week.
- The total number of students with disabilities assigned to a consultant teacher shall not exceed twenty (20).

### **RELATED SERVICES**

Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and appropriate support services and includes the early identification and assessment of disabling conditions in students. The term does not include a medical device that is surgically implanted, or the replacement of such device.

- The frequency, duration and location of each service shall be in the IEP based on the individual student's need for the service.
- Speech/language services will be provided a minimum of two (2) 30-minute sessions each week and the total caseload for teachers will not exceed sixty-five (65).
- When a related service is provided to a number of students at the same time, the number of students in the group shall not exceed five.
- A student with a disability may be provided with more than one such service in accordance with the need of the student.
- Related services may be provided in conjunction with a regular education program or with other special education programs and services.

## **RESOURCE ROOM**

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

- The instructional group in each resource room period does not exceed five (5) students, who are grouped according to their similarity of need in terms of academic or educational achievement and learning characteristics; social development; physical development and management needs.
- Students shall spend a minimum of three (3) hours per week and not more than 50 percent of the day in the resource room program.
- The total number of students assigned to a resource room teacher shall not exceed twenty (20) at the elementary level and twenty-five (25) at the middle and high school levels.
- Resource room services may be provided either in a pull-out or push-in program or a combination of both.

## **SPECIAL CLASS-INTEGRATED SETTING (COLLABORATIVE)**

“Special class – integrated setting” is defined as a group of students with the same or differing disabilities who are fully included into the general education environment but who are in need of a more intense level of support than can be provided with resource room services. Students are integrated into age-appropriate general education classrooms with appropriate support services.

## **SPECIAL CLASS**

A special class is defined as a class consisting of students with the same disabilities or with differing disabilities who have been grouped together based on similarity of need in terms of academic or educational achievement and learning characteristics; social development; physical development and management needs. The chronological age range of students who are less than sixteen (16) years of age shall not exceed thirty-six (36) months. The age range for students over 16 years of age and older is not limited. The maximum class size, determined on the basis of students' needs, will not exceed 15 students.

## **OUT-OF-DISTRICT PLACEMENT**

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

- special class operated by another District
- a BOCES program
- an approved private school
- 4201 or State Operated School
- an approved Residential Placement

## **HOME AND HOSPITAL INSTRUCTION**

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

- elementary school students will be provided a minimum of five (5) hours per week;
- secondary school students will receive a minimum of ten (10) hours of instruction per week.

## **DECLASSIFICATION SUPPORT SERVICES**

Students exiting special education may be considered for declassification services. Declassification support services, as defined in the Part 100 Regulations, include services provided by persons appropriately certified to a student or such student's teacher to aid in the student's move from special education to full-time regular education, including:

- for the student, psychological services, social work services, speech/language services, non-career counseling and other support services; and
- for the student's teacher, the assistance of a teacher aide or a teaching assistant, and consultation with appropriate personnel

Test accommodations may be continued as recommended by the CSE.

If the CSE determines that a student who has been receiving special education services no longer requires those services and can be placed in a general education program on a full-time basis, the CSE shall:

- identify the declassification support services, when appropriate;
- indicate the projected date of initiation, and
- define the frequency and duration of such services, not to exceed one year.

**ARRANGEMENT OF SPECIAL EDUCATION PLACEMENTS**  
**CPSE AND CSE**

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

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

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

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

If on review of the recommendation of a committee on special education or a subcommittee on special education, the Board of Education disagrees with such recommendation, in accordance with Commissioner's Regulations, Part 200.4(e)(2), the Board may::

- remand the recommendation to the committee or subcommittee with a statement of the board's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns. The committee or subcommittee shall consider the board's objections or concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree with the recommendation of the committee or subcommittee, the Board may either continue to remand the recommendation to the original committee or subcommittee for additional reviews of its objections or concerns, or establish a second committee or subcommittee to develop a new recommendation, provided that the Board arranges for the programs and services in accordance with the student's IEP within 60 school days of receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability; or
- establish a second committee or subcommittee to develop a new recommendation for the student. If the Board disagrees with such new recommendation, the Board may remand the recommendation to such second committee or subcommittee with a statement of the Board's objections or concerns and a request that a timely meeting be held to review and consider such objections or concerns. Such second committee or subcommittee shall consider the Board's objections or concerns, revise the IEP where appropriate, and resubmit a recommendation to the Board. If the Board continues to disagree with the recommendation of such second committee or subcommittee, the Board may continue to remand the recommendation for additional reviews of its objections or concerns by such second committee or subcommittee, provided that the Board arranges for the programs and services in accordance with the student's IEP, as developed by such second committee or subcommittee, within 60 school days of receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability. Nothing in this paragraph shall be construed to authorize the Board to select the recommendation of the original committee or subcommittee once it has established a second committee or subcommittee to make a new recommendation for the student.

## **DECLASSIFICATION OF STUDENTS WITH DISABILITIES**

The CPSE/CSE will give regular consideration to declassifying students, when appropriate. As declassification constitutes a significant change of identification and placement, the CPSE/CSE shall reevaluate the child prior to making this recommendation. The CPSE/CSE shall also provide prior notice, in the native language or other mode of communication of the home, to the child's parent or guardian and request written consent for this evaluation. If the initial request for consent for reevaluation is unsuccessful, alternate measures will be taken to obtain consent and will be documented. If reasonable attempts have been made to obtain consent and have been documented, but no response is received from the parent or guardian, the CPSE/CSE shall reevaluate the child without consent.

In order to determine the nature of this reevaluation, the school staff including members of the CPSE/CSE and other qualified professionals may review the existing evaluation data on the student including evaluations provided by the parents or guardians, current class assessments, observations by teachers, reports by related services providers and other professionals. This review shall not constitute a CPSE/CSE meeting. On the basis of this review, the District may decide that no further data is needed. In this case, the CPSE/CSE shall notify the parents or guardians that further assessment has been deemed unnecessary and that they have a right to request further assessment to determine if their child continues to be a student with a disability. If the parent or guardian does not request further assessment, the CPSE/CSE may meet to review the existing information and to consider declassification. A copy of this informal evaluation report shall be made available to the parent or guardian.

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

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

### **Screening**

As part of the Kindergarten screening, students who present as English Language Learners (ELL), formerly known as Limited English Proficient (LEP), are screened by the teacher of English as a Second Language (ESL). The ESL teacher also screens new entrants to the District who are determined to be ELL. One method that is used to determine the student's predominant language is the Home Language Survey. If the responses on the Home Language Survey reflect the student's knowledge of, or exposure to, another language, the ESL teacher administers the Language Assessment Battery (LAB) to determine language proficiency. If the student scores at or below the cut-off point on the LAB, the student is determined to be limited in oral proficiency and ESL services are provided.

ELL students who are suspected of having an educational disability may be referred for a bilingual assessment. Traditionally, the referral comes from the ESL teachers who discuss their concerns about the student's progress with the building team, guidance counselor, and/or the school psychologist with regard to the possibility of a disability interfering with the acquisition of academic and/or language skills.

### **Pre-Referral Interventions**

Prior to referral, general education supports are attempted to determine if the student can make progress through these interventions.

These supports may include:

- Academic Intervention Services
- ERRS Services
- Speech/Language Services
- ESL Services
- Reading Recovery
- Remedial reading
- Non-mandated resource room
- Extra help sessions with the general education teacher
- Informal small group instruction
- Peer tutoring
- Curriculum modifications

### **Referrals and Evaluations**

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

The procedures for ensuring appropriate and non-discriminatory evaluations for students who are English Language Learners (ELL) will be as follows:

- The CSE referral will indicate the student's native language as determined by the Home Language Survey and other assessments.
- The CSE referral includes a section that must be completed on students who are English Language Learners and may also be suspected of having a disability.
- If the student's English proficiency is determined to be insufficient to obtain valid results in English and the home language is not English, the evaluation shall be bilingual.
- If the home language is English but the student is considered an English Language Learner, an evaluation will be conducted by a professional familiar with the culture and language dialect of the student.
- If the student is from a culturally and linguistically diverse background and English is the home language and the student is considered to be proficient in English, as determined by an English language assessment, the evaluation may be conducted in English; however, the culture and linguistic background of the student will be taken into consideration.
- If the parents' dominant language is not English, they will receive all notifications in their dominant language. They will also receive the Parent's Guide to Special Education in their native language, if available.

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

The bilingual evaluation will include the following considerations/evaluations:

- the length of time the student has been in the United States;
- the amount of instruction that the student has received in the United States as well as his or her home country;
- the length of time the student has been receiving ESL instruction;
- attendance in school;
- the student's proficiency in his native language as well as English proficiency;
- the types of general education supports that the student has received.
- a bilingual evaluator will be obtained who is knowledgeable about the student's geographic area of origin as well as its language and culture;
- assessment tools and instruments in the appropriate language that are normed on the same or similar population as the country from which the student has come will be sought. If such evaluative tools are not available, the evaluator will state in the report specific concerns regarding the instruments that were used and specific cautions to be observed when interpreting the results;
- if specific sub-tests are not considered appropriate because of cultural disadvantage, the evaluator may prorate the results and explain the reasons for this decision in the report;

- student work samples may be submitted to the CSE to provide an informal portfolio assessment that may indicate functional levels;
- non-verbal assessment batteries will be used to supplement more linguistic based measures;
- age-appropriate adaptive behaviors will also be taken into consideration;
- all areas of suspected disability will be evaluated in the student's native language;
- the bilingual evaluator will conduct a complete bilingual social history;
- the evaluation report will state the language in which the assessment was administered; and
- if the tests normally used are not considered valid for the ELL student, other avenues of data collection including criterion-referenced tests may be used and the results will be described in the evaluation report.

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

A bilingual professional or translator will be present at the CSE/CPSE meeting and the attendance sheet will indicate the name and language of this interpreter.

- The CSE will consider the role of cultural and/or linguistic factors in relation to the student's behavior and/or academic difficulties before determining if special education services are required.
- In keeping with the concept of Least Restrictive Environment, the CSE/CPSE will determine the appropriateness of remedial services and other general education supports before considering special education services.
- All notices requiring consent and informing parents of CSE/CPSE recommendations will be translated into the parent's dominant language.
- The program or services recommended for the student may consist of a combination of ESL and special education services, as recommended by the CSE.

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

- lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;
- lack of instruction in math; or
- limited English proficiency.

## **EXTENDED SCHOOL YEAR (ESY) SERVICES**

The CSE or CPSE will determine whether a student requires extended school year special education services in order to prevent substantial regression. Substantial regression as defined by regulations would be indicated by a student's inability to maintain developmental levels due to a loss of skill, set of skill competencies or knowledge during the months of July and August. In accordance with Section 200.6(j) of the Commissioner's Regulations, students will be considered for 12-month special services and/or programs to prevent substantial regression if they are:

- Students whose management needs are determined to be highly intensive and require a high degree of individualized attention and intervention and who are placed in special classes;
- Students with severe multiple disabilities, whose programs consist primarily of rehabilitation and treatment;
- Students who are recommended for home and hospital instruction whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment;
- Students whose needs are so severe that they can be met only in a seven-day (7) residential program; or
- Students receiving other special education services, who, because of their disabilities exhibit the need for a 12-month special service and/or program provided in a structured learning environment of up to 12-months duration in order to prevent substantial regression.

Both quantitative and qualitative information will be reviewed by the Committee to substantiate the need for providing such services and programs. A student is eligible for a twelve-month (12) service or program when the period of review or re-teaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or re-teaching ranges between twenty (20) and forty (40) school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight (8) weeks or more would indicate that substantial regression has occurred.

Nothing shall prevent the CPSE or CSE from recommending, or the Board of Education from selecting, a special service or program for July and August that is different in type, intensity, frequency, location or duration than the service or program that the child was provided between the months of September and June.

Parent consent is required for initial placement in a 12-month program or service.

## **ACCESS TO ASSISTIVE TECHNOLOGY DEVICES AND SERVICES**

The District is committed to ensuring that assistive technology devices and/or services are made available to a student with a disability, when appropriate, as part of the student's Individualized Education Program (IEP).

The IEP must describe any specialized equipment and adaptive devices needed for the student to benefit from instruction. IDEA requires each District to ensure that assistive technology devices and/or services are made available to a preschool or school-age student with a disability as part of the student's special education, related services or supplementary aids or services as described in the IEP. IDEA defines assistive technology devices and assistive technology services, as follows:

Assistive technology devices means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. This term does not include a medical device that is surgically implanted, or the replacement of such a device.

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

- evaluation of the needs of a child with a disability, including a functional evaluation of the student in the student's customary environment;
- purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- training or technical assistance for a child with a disability, or if appropriate, that child's family; and
- training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of that student.

A student's need for assistive technology is determined through the individual evaluation. The District's CSE/CPSE is responsible for this functional evaluation of the student. The need to conduct an assistive technology component of an evaluation must be considered for students on a case-by-case basis.

Since assistive technology services are provided as part of the student's special education instruction, related services and/or other supplementary aids and services, they must be provided by an appropriately licensed or certified individual in accordance with Section 200.6 of the Regulations of the Commissioner of Education.

## **EXEMPTION FROM FOREIGN LANGUAGE REQUIREMENT**

Students who entered the 9<sup>th</sup> grade during the 2001/02 school year and thereafter are required to complete one high school credit in a language other than English in order to earn a Regents diploma. This requirement is established for all schools by Section 100.2 (d) of the Regulations of the Commissioner of Education.

Students identified as having disabilities may be exempted from this requirement if their Individualized Education Program (IEP) indicates that such requirement is inappropriate. Only those students whose disabilities specifically and severely impair receptive and/or expressive language skills, or exhibit other behavioral or learning problems that would impact ability to benefit from foreign language instruction may be exempt from the foreign language requirements, as most students would benefit from exposure to a foreign language. The reasons for any exemption will be specified in the IEP.

At annual review for all students who are completing 6<sup>th</sup>, 7<sup>th</sup>, or 8<sup>th</sup> grade, the CSE will consider the youngster's area(s) of disability in relation to the following guidelines. A youngster may be exempt from a foreign language if he/she exhibits one or more of the following:

- severe auditory processing and/or severe auditory memory deficit;
- significant discrepancy between the verbal and performance areas on intelligence testing, where the profile suggests significant verbal difficulties;
- functioning four (4) years below age or grade level expectations in that area of language and/or reading comprehension;
- hearing impairment of a significant degree;
- inability to express ideas in written form; expressive writing skills four (4) years below age or grade expectations;
- significant speech impairment;
- severe emotional factors which may be relevant to youngster's ability to benefit from foreign language instruction; or
- severe physical handicaps and/of limitations with regard to strength, vitality or alertness.

If the CSE concludes the exemption is warranted, reasons for the exemption will be noted in the IEP.

If a student with a disability is assigned to a language class, a copy of the IEP showing necessary testing accommodations and classroom modifications will be made available to the language instructor.

## **TRANSITION PLANNING SERVICES FOR STUDENTS WITH DISABILITIES**

### **Definition:**

“Transition Services” are defined in the Commissioner’s Regulations as a coordinated set of activities for a student with a disability, designed within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student’s movement from school to post-school activities including, but not limited to, post-secondary education, vocational education, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student’s needs, taking into account the student’s strengths, preferences and interests, and shall include needed activities in the areas of instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation..

### **Individualized Transition Plans:**

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

For students age fourteen (14) and older, the IEP must demonstrate the use of a coordinated set of activities as the means by which the student can achieve the long-term adult outcomes. Beginning at age fourteen (14), the focus of activity is on instruction, such as courses of study such as participation in advanced placement courses or a vocational education program. At age fifteen (15) or older, the coordinated set of activities must address instruction, related services, community experiences and the development of employment or other post-school adult living objectives. At all meetings for the purpose of discussing the need for transition services, the student will be invited. In addition, a representative of the agencies likely to provide or pay for transition services will be invited. Other knowledgeable school personnel, such as the administrator, psychologist, related service provider, and general education teacher, may be asked to participate in the process.

### **Coordinated set of activities:**

- **Instruction** – Education to be provided to the student to achieve the stated outcome(s), such as general and/or special education course instruction, occupational education and advanced placement courses.
- **Related Services** – These are specific related services, as defined in Section 200.1 of the Commissioner’s Regulations, such as rehabilitation counseling services, which will support the student in attaining the stated outcome(s).
- **Employment and Other Post-School Adult Living Objectives** – Educational services that will be provided to the student to prepare for employment or other post-school activity. Post-school activities will determine what other skills or supports will be necessary for the student to succeed as independently as possible. Examples include participation in a work experience program, information about colleges in which the student has an interest and travel training.

- **Community Experiences** – Community-based experiences that will be offered or community resources utilized as part of the student’s school program, whether utilized during school hours or after school hours, to achieve the stated outcome(s).
- **Activities of Daily Living Skills (ADL)** (if appropriate) – ADL skills, such as dressing, hygiene, self-care skills, and self-medication, necessary to be worked on to achieve the stated outcome(s).
- **Functional Vocational Assessment** (if appropriate) – If the vocational assessment has not provided enough information to make a vocational program decision, additional assessment activities can be performed to obtain more information about the student’s needs, preferences and interests.

## **VOCATIONAL ASSESSMENTS**

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

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

- the review of existing school information;
- the completion of informal interviews;
- parent questionnaires;
- one or more formal vocational evaluations; and
- job and student performance analysis made in real and/or simulated work settings.

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

### **LEVEL OF VOCATIONAL ASSESSMENT**

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

**Level I** vocational assessment includes a structured collection of information and analysis of existing information about the student. This assessment involves the participation of the student, the student's parent(s) or guardian(s), a special education teacher, and the student's guidance counselor. Other appropriate professionals may also participate in this assessment.

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

**Level III** vocational assessment is a situational assessment conducted while a student is actually engaged in work related/vocational activities. This may require resources such as those available in a vocational rehabilitation facility, an occupational assessment center or in an actual work setting. This type of assessment is usually reserved for more multi-disabled students whose disabilities are very severe.

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

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

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

Aging-out is specifically designed to meet the needs of three groups of students with severe disabilities:

- **Chapter 544 Students:** Students attending residential out-of-state schools who have attained or will attain the age of 18 prior to June 30<sup>th</sup> of the current school year.
- **Chapter 570 Students:** Students attending residential in-state schools who have attained or will attain the age of 18 by June 30<sup>th</sup> of the current school year.
- **Chapter 462 Students:** Students attending non-residential, in-state programs 100% of the time, who have intensive management needs and who are likely to require adult services: The process for eligible students begins at the first annual review after the student reaches the age of 18.

Although the procedures for referral of students in these three groups are not identical, there are certain common overriding steps:

- identification of students likely to need adult service based on criteria noted above.
- notification to parents or students
- obtaining consent to release information
- referral to agency(ies)
- submission of reports to the State Education Department

## **PROCEDURES FOR AWARDING DIPLOMAS**

It is the policy of the District to encourage students with disabilities to pursue high school diplomas. Access must be provided to required courses, electives and tests as specified in Part 100 of the Regulations of the Commissioner. The CSE must consider the high school credentials the student will seek to attain: a Regent's or local high school diploma or IEP diploma. To ensure that students with disabilities are encouraged and assisted to achieve the credits and the skill levels necessary for attaining a diploma, the District adopts the following procedures:

- The CSE will annually review the special educational needs of each student with a disability. At each annual review after the student has entered the Middle School, the CSE will make an assessment as to whether or not the student's capabilities indicate probable success in a course of study leading to a Regents diploma, or whether his or her needs could be better met in an individualized education program designed to culminate in an IEP Diploma. Where appropriate, the student will participate in this decision-making process.
- The decision will be reviewed annually. The CSE will consider the following factors:
  - current levels of achievement;
  - learning rate; and
  - preference of student and family.
- The CSE will consider if the student requires test accommodations to participate in state or District-wide assessments. These accommodations will be clearly stated on the student's IEP.
- The District will offer appropriate remedial instruction for all students.
- The CSE will identify and recommend support services and supplementary instruction necessary to assist students to benefit from credit courses.
- If the student's special education needs require instruction in small classes from certified special education teachers, the IEP shall so indicate and placement will be made in or outside the District in special education classes. Instruction in subjects granting credit toward graduation and a Regent's or local high school diploma will be provided in accordance with curriculum objectives and required levels of achievement determined by the special education teacher in consultation with a teacher certified in the subject being taught.
- A record of the objectives and criteria for mastery will be subject to approval by the building principal and maintained in the special education office. Evaluation of student work will be completed in accordance with the individual educational needs of the student.

## **GUIDELINES FOR ISSUANCE OF AN IEP DIPLOMA**

The District subscribes to the concept that all students must be provided with quality instruction and opportunities for academic achievement. It is expected that students with disabilities will be guided towards a course of study that will lead to the achievement of a high school diploma. It is recognized, however, that the achievement of this standard may be precluded for some students due to the nature or severity of their disability. The awarding of an IEP diploma is authorized for such students under the following conditions.

- No student shall be denied the opportunity to earn a high school diploma as defined by the Commissioner of Education. The IEP of a student of age 13 or over shall stipulate the type of diploma to which achievement of the goals specified therein will lead.
- Such diploma shall be awarded at the end of the school year in which the student reaches age 21 provided that the educational goals in the student's current IEP have been achieved.
- Alternately, upon application of the student or parent, such diploma may be awarded upon the completion of 12 years of attendance or its equivalence, excluding kindergarten, provided that the educational goals in the student's current IEP have been achieved.
- Any student under age 21 who is awarded such diploma shall receive written notice of his entitlement to attend the District tuition free until the end of the school year in which that age is reached or a high school diploma is earned.
- The IEP diploma document shall be in conformance with the Regulations of the Commissioner of Education.

Prior receipt of an IEP Diploma does not preclude subsequent granting of a regular diploma if passing of appropriate assessments and necessary credits are achieved before the end of the school year in which a student reaches his/her 21<sup>st</sup> birthday. In all cases in which an IEP Diploma is issued, parents will receive written notice that a student is entitled to receive a free, appropriate public education until the end of the school year in which he/she reaches his/her 21<sup>st</sup> birthday or obtains a high school diploma, whichever shall occur first.

## **HIGH SCHOOL EQUIVALENCY PROGRAMS**

Students with disabilities may also receive diplomas through high school equivalency preparation programs. These programs are designed to instruct students who are over the compulsory school age so that they may successfully complete the General Education Development (GED) tests that are required for a high school equivalency diploma.

A qualified individual who has received a high school equivalency diploma, but not a regular high school diploma, remains entitled to a free appropriate public education until the end of the school year in which he/she attains the age of twenty-one (21), or until he/she obtains a high school diploma.

## **PROCEDURAL SAFEGUARDS**

### **Due Process**

A mandatory Procedural Safeguards Notice has been provided to Districts by the New York State Education Department. This Procedural Safeguards Notice must be provided to the parents of a student with a disability, at a minimum one time per year and also upon:

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

### **Prior Written Notice**

Prior written notice means written statements provided to the parents of a student with a disability a reasonable time before the District proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.

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

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

### **Informed Consent (CSE and CPSE)**

#### **“Consent” means:**

- the parent has been fully informed, in his or her native language or other mode of communication, of all information relevant to the activity for which consent is sought, and has been notified of the records of the student which will be released and to whom they will be released;
- the parent understands and agrees in writing to the activity for which consent is sought; and
- the parent is made aware that the consent is voluntary on the part of the parent and may be revoked at any time except that, if a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

## **Written Parental Consent is Required Prior To:**

### **Initial Evaluation**

Upon receipt of a referral to the CSE/CPSE of a student who is suspected of having disability, parental consent for evaluation is requested. The parent is contacted by a representative of the CSE/CPSE regarding the referral. The reason for the referral and the evaluation process are explained. The parent is also provided with a copy of due process rights, information describing the components of a comprehensive evaluation and A Parent's Guide to Special Education. Translations are provided to the parent, as needed.

If the parent does not consent, the parent is invited to an informal conference to discuss the evaluation process. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent. If the parent of a preschool child does not provide consent for initial evaluation, no further action will be taken by the CPSE until such consent is obtained. If the parent of a school-age child does not provide consent for an initial evaluation within 30 days of the dated receipt of the referral, the chairperson will document attempts to obtain parental consent and will notify the Board of Education that they may utilize the due process procedures to permit the District to conduct an evaluation of the student without the consent of the parent.

The initial evaluation to determine if a school-age student is a student with a disability must be completed within 60 days of receiving parental consent for the evaluation. The 60-day timeframe shall not apply if:

- a student enrolls in District after parental consent has been received and prior to a determination by the previous District as to whether the student is a student with a disability. The District will ensure prompt completion of the evaluation. The parent and District will agree to a specific time when the evaluation will be completed; or
- the parent of the student repeatedly fails or refuses to produce the student for the evaluation.

### **Initial Provision of Special Education Services**

If the CSE/CPSE determines the student has a disability and recommends special education services, parental consent to initial placement is requested. If a parent refuses to give written consent, the District may not deny the parent or child any other service, benefit, or activity of the District, except for the recommended special education service. Translations are provided as necessary. Parents are given the opportunity for further discussion with the Chairperson of the CSE or school staff, if needed. Outreach efforts are made, when necessary, to ensure the parent has received and understands the request for consent for placement. If the parent of the student refuses to consent or fails to respond to a request to provide consent to the provision of special education programs and services, the District shall not provide special education services to the student and shall not use due process procedures to challenge the parent's refusal to consent. The District will not be considered to be in violation of the requirements to make available a free appropriate public education for the failure to provide the student with the special education program and services for which the District requests consent. The District will not be required to convene a meeting of the Committee on Special Education or develop an IEP for the special education program and services for which the District requests consent.

### **Initial Provision of a Twelve (12) Month Program or Service**

Parent consent is required for initial placement in a 12-month program or service.

### **Reevaluation**

Parental consent will be requested prior to conducting a reevaluation of the student with a disability; however, the District may proceed with the reevaluation if the parent guardian does not respond and reasonable measures have been taken to obtain such consent.

Reasonable measures are interpreted as:

- a written notice is sent to the parent requesting consent for the reevaluation;
- at least one additional attempt is made to notify the parents; this may mean an additional written notice or a telephone call.

### **Withdrawal of Referral**

Parental consent will be requested if a parent decides to withdraw a referral for special education.

### **Requests for Records/Other Communications with Non-District Personnel**

Parent consent is requested for the following:

- release of CSE records to another agency/individual;
- request for copies of reports/evaluations from another agency/individual;
- request for verbal communications with another agency/individual;
- to access a parent's private insurance for the provision of any special device or evaluation. (Refusal to permit the District to access private insurance does not relieve the District of its responsibility to ensure that all required services are provided at no cost to the parents.)

See section on Special Education Records: Access and Accessibility for further information.

Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

## INDEPENDENT EVALUATIONS

At the time of CSE initial or reevaluation, the Special Education Office will inform parents regarding their right to an independent evaluation by providing them with a copy of the Procedural Safeguards Notice. If the parents disagree with the evaluation conducted by the CSE, parents may request an independent evaluation at District expense. The names, addresses and telephone numbers of appropriate public and private agencies and other professional resources where independent educational evaluations may be obtained will be provided upon request.

The District may ask for the parent's reason why he or she objects to the public evaluation. The District has a right to initiate an impartial hearing to demonstrate that its evaluation is appropriate or that the evaluation obtained by the parent does not meet District criteria. If a hearing officer determines that the District's evaluation was appropriate or the evaluation obtained by the parent did not meet District criteria, the parent has the right to an independent evaluation, but not at public expense.

Any independent evaluation whether paid for by the parent or by the District, will be reviewed by the CSE and taken into consideration in its decision with respect to the provision of a free appropriate public education.

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

- the parent must request a copy of the board policy prior to seeking an evaluation and reimbursement;
- the qualifications of the evaluator(s) shall be the same as the criteria which the District uses when it initiates an evaluation.
- psychologists must be licensed by the State of New York as clinical psychologists or certified as school psychologists. If certified as a school psychologist, the evaluator must conduct the evaluation in a school setting;
- other evaluators should be appropriately certified in the area of their specialty by the State Education Department, must have experience in the area of their specialty and must have experience with students of a similar age;
- the evaluation will take place in Nassau County. For the purposes of this policy, Long Island Jewish Medical Center/Schneider's Children's Hospital shall be deemed to be situated in Nassau County;
- the tests performed must be norm-referenced for individual evaluation appropriate for the age and educational level of the student, and measure the same cognitive, motor, and affective skills as District tests;
- the cost of an independent evaluation requested by a hearing officer shall be at District expense; and
- reimbursement will not be in excess of the reasonable cost of such evaluation, less the portion of such costs paid through insurance or Medicaid payments. In the absence of unusual circumstances costs will be deemed reasonable and allowable in accordance with the following fee schedule:

**Fee Schedule**

|                                 |                       |    |          |
|---------------------------------|-----------------------|----|----------|
| Psychological Evaluation        | Cognitive Evaluation  | \$ | 400.00   |
|                                 | Projective Evaluation | \$ | 300.00   |
| Neurological Evaluation         |                       | \$ | 450.00   |
| Educational Evaluation          |                       | \$ | 450.00   |
| Speech/Language Evaluation      |                       | \$ | 420.00   |
| OT Evaluation                   |                       | \$ | 250.00   |
| PT Evaluation                   |                       | \$ | 250.00   |
| Psychiatric Evaluation          |                       | \$ | 750.00   |
| Neuropsychological Evaluation   |                       | \$ | 2,600.00 |
| Audiological Evaluation         |                       | \$ | 200.00   |
| CAP Evaluation                  |                       | \$ | 400.00   |
| Assistive Technology Evaluation |                       | \$ | 750.00   |

**Resources for Independent Evaluations**

|  |  |
|--|--|
| Schneider's Children's Hospital<br>269-01 76 <sup>th</sup> Avenue<br>New Hyde Park, NY 11040<br>(718) 470-3540   | North Shore University Hospital<br>Center for Neuropsychological Services<br>400 Community Drive<br>Manhasset, NY 11030<br>(516) 562-3054  |
| North Shore Child & Family Guidance Center<br>480 Old Westbury Road<br>Roslyn Heights, NY 11577<br>(516) 626-1971  | Nassau University Medical Center<br>Child Development Center<br>2201 Hempstead Turnpike<br>East Meadow, NY 11554<br>(516) 599-1181   |
| Adelphi University<br>Garden City, NY 11530<br><br>Center for Psychological Service<br>(516) 877-4820<br><br>Hy Weinberg Speech & Hearing Clinic<br>(516) 877-4850 | Hofstra University<br>Hempstead Turnpike<br>Hempstead, NY 11550<br><br>Psychological Evaluation Research Center<br>(516) 463-5660<br><br>Saltzman Speech-Language-Hearing Center<br>(516) 463-5656 |

## **SURROGATE PARENTS**

“*Surrogate Parent*” means a person appointed to act in place of parents or guardians when a student’s parents or guardians are not known, or when after reasonable efforts, the Board of Education cannot discover the whereabouts of a parent, the student is an unaccompanied homeless youth, the student is a ward of the State, or the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law. The Board of Education shall select a surrogate parent from a list of individuals who are eligible and willing to serve as surrogate parents. The list is approved at the annual reorganization meeting of the Board.

### **Qualifications**

Persons selected as surrogate parents cannot be officers, employees or agents of the District or State Education Department or other agency involved in the education or care of the student. To the extent possible, an effort is made to appoint surrogate parents who:

- have no other interest which could conflict with their primary allegiance to the student they would represent;
- are committed to acquaint themselves personally and thoroughly with the student and the student’s educational needs; and
- are generally familiar with the educational options available to children with disabilities.

### **Procedures for Assigning Surrogates**

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

- Any person whose work involves education or treatment of students, who knows of a student who may need special education services, and who knows that the parents or guardians are not known or are unavailable, or that the student is a ward of the State, may file a request for assignment of a surrogate parent, with the CSE.
- The CSE shall send notice of the possible need for a surrogate parent to the adult in charge of the student’s place of residence and to the parents or guardians at their last known address.
- The CSE shall determine whether the parents or guardians are unknown or unavailable, or whether the student is a ward of the State. Where the student is known to the District to be a ward of the State, reasonable efforts to discover the whereabouts of the parent shall include consultation with the local social service agency responsible for the care of the student. The determination of the need for a surrogate parent shall be complete within a reasonable time following the receipt of a referral for an initial evaluation, reevaluation or services. If the CSE finds there is a need for a surrogate parent, one who meets the qualifications identified above shall be selected the list approved by the board of education within 10 business days of the date of the determination by the CSE of the need for the surrogate parent.

- Once assigned, the surrogate parent shall represent the student for as long as a surrogate parent is required.
- The foster parent of the student, who otherwise meets the qualifications, may be appointed as the surrogate parent of the student without being appointed from a list approved by the Board of Education.
- The surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate parent meets the requirements above. The individual appointed by the judge need not be appointed from a list approved by the Board of Education.

## **SPECIAL EDUCATION MEDIATION**

If the parents disagree with the decision of the CSE/CPSE regarding the student's program or services, they have the option to participate in mediation. Choosing to participate in mediation does not limit other alternatives, such as requesting a meeting with the Committee or requesting an impartial hearing. Mediation is a process in which the parents of a student with a disability and representative(s) of the District meet with an independent person, a mediator, to resolve disputes involving any matter for which an impartial due process hearing may be brought. Unlike an impartial hearing at the end of which the impartial hearing officer makes a decision, the mediator does not make a decision. The mediator helps the parents and District representative(s) reach a more complete understanding of each other's concerns in an effort to reach an agreement about the special education programs and services that the student will receive. The following procedures apply:

- The mediation process is voluntary on the part of the parent and District;
- The mediation process is not used to deny or delay a parent's right to a due process hearing or to deny any other rights;
- The mediation session is conducted by a qualified and impartial mediator who is trained in effective mediation techniques, is knowledgeable in laws and regulations relating to the provision of special education services and who is selected by the community dispute resolution center on a random (i.e., rotation basis);
- Each session in the mediation process is scheduled in a timely manner and is held in a location that is convenient to the parties to the dispute;
- Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process; and
- In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding written agreement that sets forth the resolution and that states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The agreement shall be signed by both the parent and a representative of the school district who has the authority to bind the District. The agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.
- If the written agreement reached by the parties in mediation is inconsistent with the student's IEP, then the student's IEP must be immediately amended to be consistent with the mediation agreement.

When conducting meetings under this provision, the parties may agree to use alternative means of meeting participation, such as video conferences and conference calls.

Special education mediation will be conducted by the Community Dispute Resolution Center (CDRC) in Nassau County. Each center is staffed by a number of highly qualified mediators who are not employed by the District and who are not selected to be mediators by the District.

Mediation occurs at no cost to either the parents or the District.

## **RESOLUTION SESSION**

Prior to an impartial due process hearing, the District shall, within 15 days of receiving the due process complaint notice from the parent, convene a meeting where the parents of the student discuss their complaint and the facts that form the basis of their complaint, and the District has the opportunity to resolve the complaint. The participants of the meeting shall include the parents and relevant members of the CSE who have specific knowledge of the facts identified in the complaint, including a representative of the District who has decision-making authority on behalf of the District. This meeting may not include the attorney of the District unless the parent is accompanied by an attorney. The parent and District may agree to use alternative means of meeting participation, such as video conferences and conference calls.

The parent and the District may agree in writing to waive the resolution session or agree to use the mediation process to resolve the dispute.

If the parent and District reach an agreement to resolve the complaint at a resolution session, a legally binding agreement shall be signed by both the parent and a representative of the District who has the authority to bind the District. This agreement shall be enforceable in any State or District court of the United States. Either the parent or District may void the agreement within three business days of the agreement's execution.

If the District has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the due process complaint notice, the impartial due process hearing may occur and all the applicable timelines for an impartial due process hearing shall commence.

## **APPOINTMENT OF IMPARTIAL HEARING OFFICERS**

The Board of Education annually establishes and maintains a list of names and qualifications of Impartial Hearing Officers (IHO) available to conduct a hearing and render a decision. No individual employed by the District may serve as an impartial hearing officer. An impartial hearing officer shall:

- be an individual admitted to the practice of law in the State of New York who is currently in good standing with a minimum of two years practice and/or experience in the areas of education, special education, disability rights or civil rights; or be an individual certified by the State of New York as an impartial hearing officer on September 1, 2001;
- have access to the support and equipment necessary to perform the duties of an impartial hearing officer;
- be independent, shall not be an officer, employee or agent of the District or Nassau BOCES, or an employee of the Education Department, shall not have a personnel or professional interest which would conflict with his/her objectivity in the hearing, and shall not have participated in any manner in the formulation of the recommendation sought to be reviewed;
- be certified by the Commissioner as an impartial hearing officer eligible to conduct hearings and, in order to obtain and retain such certification, shall successfully complete a State Education Department training program and periodic update programs as scheduled by the Commissioner; and
- meet all other requirements specified in Commissioner's Regulations, Part 200.1(x).

### **Appointment**

The updated list of certified IHOs for Nassau County promulgated by the NYS Education Department will be used in connection with all requests for impartial due process hearings. The list will be established and maintained in alphabetical order with new appointees being inserted into the alphabetical order of the list. The list shall include the names of those certified IHOs who appear on the state list for the County of Nassau or who have indicated their interest in serving in such capacity in the Oceanside Union Free District.

Upon receipt of a complete due process complaint notice, the District Clerk or designee not involved in the hearing process shall canvass the list in alphabetical order of IHO's as prescribed by Commissioner's Regulations to ascertain the willingness and availability of the next listed individual to serve as an IHO for the particular matter. The rotational selection process for the IHO shall be initiated immediately and always within two days after receipt of such request. Should an IHO decline appointment or, if within 24 hours the IHO fails to respond or is unreachable after reasonable attempts by the District Clerk or designee, such District representative shall then proceed through the list to determine availability of the next successive IHO.

The impartial hearing officer may not accept the appointment unless he or she is available to make a determination of sufficiency of a due process complaint notice within five days of receiving such a request, unless an extension is granted, and to initiate the hearing within the first 14 days after:

- the date upon which the impartial hearing officer receives the parties' written waiver of the resolution session; or
- the date upon which the impartial hearing officer receives the parties' written confirmation that a resolution session was held but no agreement could be reached; or
- the expiration of the 30-day period beginning with the receipt of the due process complaint notice, whichever occurs first.

The District Clerk or designee shall then proceed through the list to determine availability of the next successive IHO.

Upon identifying the next IHO on the list who is available to serve, a subcommittee of the Board of Education shall appoint such person to serve as the IHO. That appointment will be ratified by the full Board of Education at its next regularly scheduled meeting.

Records relating to the IHO process including, but not limited to, the request for availability, initiation and completion of such impartial due process hearing will be maintained by the District and such information will be reported to the Office of Vocational and Educational Services for Individuals with Disabilities of SED as required by the Commissioner's Regulations.

### **Procedures**

1. The selection of an impartial hearing officer must be made from a list of all hearing officers who are certified, pursuant to the Regulations of the Commissioner, Part 200.1 (X) and available to serve in the District.
2. The list must be established and maintained in alphabetical order with new appointees being inserted into the alphabetical order of the list.
3. Selection must be made on a rotational basis, beginning with the first name after the hearing officer who last served. If no hearing officer on the list has served, selection must be made beginning with the first name on the list.
4. If a hearing officer declines appointment or if within 24 hours, fails to respond or is unreachable after reasonable efforts by the District, each successive impartial hearing officer whose name next appears on the list shall be offered appointment, until such appointment is accepted. These attempts will be documented.

### **Compensation**

The District shall compensate an impartial hearing officer for his or her services at the maximum rate established for such purpose by the Director of the Division of the Budget. Currently, this rate is \$100.00 per hour for pre-hearing, hearing, and post-hearing activities. There is no maximum per diem number of hours for which an IHO can be compensated. Pre-hearing activities include scheduling the time and location of the hearing, conducting pre-hearing conferences, arranging for witnesses and subpoenas, and writing letters to the parties involved in the hearing. Hearing activities include the hearing, participating in settlement discussions and arranging for subsequent hearing dates. Post-hearing activities include researching material pertinent to the issues raised at the hearing, reviewing the hearing records, exhibits, memoranda of law and writing the decision. In addition, impartial hearing officers may be reimbursed for reasonable, actual and necessary expenses for automobile travel, meals and overnight lodging in accordance with the current District

reimbursement rate set for employees. Mailing costs associated with the hearing will also be reimbursed.

Impartial hearing officers will be reimbursed for automobile travel in accordance with the current Internal Revenue Code mileage rate. If the travel distance from the home/office of the impartial hearing officer more than 200 miles from the hearing location, the impartial hearing officer may be reimbursed for air travel using commercial airline carrier where tickets are purchased at the economy rate for round trip tickets. Prior to confirming purchase of airline tickets, the impartial hearing officer must inform the District of his/her wish to travel by airline.

The District shall not be responsible for the impartial hearing officer's fee due to a late cancellation unless said cancellation is made by the District less than one (1) calendar week from the date the impartial hearing officer is scheduled to serve.

The District shall annually notify each impartial hearing officer certified to serve in the District of this policy and of the current rates set by the District for travel reimbursement, overnight lodging, meal expenses and mailing costs.

**For further information concerning the impartial hearing process, refer to the "NEW YORK STATE EDUCATION DEPARTMENT PROCEDURAL SAFEGUARDS NOTICE".**

### **Guardian Ad Litem**

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

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

## **SPECIAL EDUCATION RECORDS: ACCESS AND CONFIDENTIALITY**

### **Notice of Rights Concerning Student Records**

The federal Family Educational Rights and Privacy Act (FERPA) provides parents/guardians, or a student age 18 or older, with rights concerning school records

- Parents of a student under 18, or a student age 18 or older, have a right to inspect and review any and all official records, files and data directly related to their student, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades standardized achievement test scores), attendance data, score on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious recurrent behavior patterns.
- A parent of a student under 18 years of age or a student 18 years of age or older shall make a request for access to the student's school records, in writing, to the principal of the building to which such student is assigned or to the guidance counselor or Director of Guidance in the secondary school. Upon receipt of such request, arrangements shall be made to provide access to such records within a reasonable period of time, but in no case, no more than forty-five (45) days after the request has been received.
- Such parents and students are also entitled to an opportunity for a hearing to challenge the content of such records, to ensure that they are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein. Any questions concerning the procedure to be followed in requesting such a hearing should be directed to the Assistant Superintendent of Schools.
- Student records and any material contained therein which is personally identifiable are confidential and may not be released or made available to persons other than parents or students without the written consent of such parents or student. There are a number of exceptions to this rule, such as other school employees and officials and certain state and federal officials who have a legitimate educational need for access to such records in the course of their employment.
- The District shall maintain information regarding its students, including students' names, addresses, telephone listings, dates and places of birth, major fields of study, dates of attendance, degrees and awards received and previous educational institutions attended.

## **DEFINITIONS**

Terms that are defined in federal or state law which are used in connection with regulations regarding student records are explained below:

**Student:** any person who has received educational services or instruction within the District. This includes students who receive preschool services from the Oceanside Union Free District.

**Eligible Student:** a student or former student who has reached the age of 18 or who is attending an institution of post-secondary school education, unless the parent has legal guardianship of the student. An “eligible student” (not his/her parent) has full access to his/her own records and is the only person who is authorized to consent to the release of such records. Such student may expressly authorize a parent or guardian to exercise access and release rights on his/her behalf, but such authorization must be in writing, and must be signed by the student in the presence of a third party.

**Parent:** either parent, unless his/her right to access to school records has been specifically revoked by court order or a legally binding document, and the District has received notice of such court order or document. The term “parent” also includes a guardian who has been appointed by a court or who had demonstrated, to the satisfaction of the principal, that he or she is the actual and only person responsible for the child and for making decisions on the student’s behalf.

Non-custodial parents have the same rights concerning access to their student’s educational records as do parents who have custody. The Board of Education may use a 45-day period to inform the custodial parent and afford him/her the opportunity to present a court order or other binding instrument barring the release of the date requested by the non-custodial.

**Education Record:** a record which is maintained within the District which relates to the preschool, elementary, or secondary school education of a student within the District and which is accessible to more than one educator or other professional within the District.

**Personally Identifiable:** information that includes the name or address of the student, the student’s parent or other family member, a personal identified such as the student’s social security or student identification number, or a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

**Student Cumulative Records:** a student cumulative record is initiated upon the student’s entry to school and follows the student through his/her school career. The record will include the following types of information: personal identification data, attendance records, health history, academic history including subjects and teachers by semester and year, units of study, summer school credits, subjects and grades failed and subjects dropped, secondary school subject sequences, type of diploma and date of graduation, report cards standardized transcript, correspondence pertinent to the educational development of the student records of suspensions or other disciplinary matter; and honors and awards.

## **MAINTENANCE OF STUDENT RECORDS**

Student records and other material contained therein, which are personally identifiable, are confidential and may not be released or made available to persons other than those authorized in this Regulation. All records are made available only to authorized individuals and kept in a secure manner in the following locations:

| <u>Record</u>               | <u>Responsibility</u>     | <u>Location</u>                   |
|-----------------------------|---------------------------|-----------------------------------|
| Cumulative Student Records  | Building Administrator    | Building Administrator's Office   |
| Health Records              | School Nurse              | Health Office                     |
| Attendance Records          | Building Administrator    | Building Administrator's Office   |
| Special Education Records   | Assistant Superintendent  | Special Education Office          |
| Building Level Team Records | Building Administrator    | Building Administrator's Office   |
| Psychological               | School Psychologist       | School Psychologist's Office      |
| Special Education Teacher   | Special Education Teacher | Special Education Teacher's       |
| Related Service Provider    | Related Service Provider  | Related Service Provider's Office |
| Section 504 Team Records    | School's 504 Chairperson  | Building Administrator's Office   |

The Freedom of Information Law, Chapter 933 of the Laws of 1977, provides for unimpaird access to the records of government agencies by the public.

The Oceanside District makes student records available for review by parents, guardians and eligible students.

## **INSPECTION OF DISTRICT RECORDS**

1. Parent(s), guardians(s) and eligible students may inspect and review the student's official records, files and data directly related to the student upon compliance with the following conditions:
  - The parent or eligible student should submit to the student's school principal a written request to see the student's file. If a student's records are maintained in several locations, the school principal will, upon request, collect the records, as described below. Such review will be scheduled promptly after receipt of the written request for access and in no case take place more than forty-five (45) days from the date of that receipt. For records containing information on more than one student, parent/student access is limited to only the information which pertains to the specific student child.
  - Records in the custody of the Special Education Office may be obtained upon request to the Assistant Superintendent for Special Education & Pupil Services. Appointments for review of special education records will be made upon a minimum of three days notice at the mutual convenience of staff, parent or eligible student.
  - Upon request, record review will be arranged prior to any CSE or CPSE meeting or any discussion regarding an IEP.

2. Within five (5) school days of receipt of a written request for a record, the principal or designee shall make such record available, deny such request in writing, or furnish a written acknowledgement of the receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within ten (10) business days after the principal or designee acknowledges receipt of the request, failure to respond may be construed as a denial of access that may be appealed.
3. Any person denied access to a record, within thirty (30) days from receipt of notice of such denial, may appeal the denial in writing, to the Superintendent or a designee. It may be appealed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.
4. Appropriate District personnel will be present during record inspection to interpret and explain records during the school year. Records may be inspected between 9:00 a.m. and 3:00 p.m. Copies of documents will be made available at a cost of \$.25 per page. Parents may be accompanied by any person in reviewing records or may have an appropriately authorized representative inspect and review only the information relating to their child.

### **Transmittal of Records**

To facilitate the transition for a student, the new District in which the student enrolls will take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education services to the student, from the previous school in which the student was enrolled. The previous school in which the student was enrolled will take reasonable steps to promptly respond to this request from the new school.

### **Release of Student Records to Third Parties**

1. **Release with Consent** – Except under certain limited circumstances set forth in this policy and permitted by the Family Educational Rights and Privacy Act, education records will be released to third parties only with the prior written consent of the parent or eligible student.
2. **Release without Consent** – Records may be released without consent only under the following circumstances:
  - a. Educational records concerning a particular student may be released only to staff members who have responsibility for the student, and then only if it is educationally necessary to consult the records.
  - b. Records in the custody of the Special Education Office may be released to school officials and members of the CSE or CPSE only for purposes of the identification of a student's disability and development of an IEP.
  - c. Portions of the cumulative record or current evaluations and IEP from special education records may be released without consent to another school under the circumstances indicated below:
    - If the principal of the school maintaining the record has received written notification of the student's intent or attempt to enroll there, or

- If the CSE has recommended placement in such school.

Records disclosed pursuant to this provision without express written consent, will be only those deemed by the Assistant Superintendent for Special Education & Pupil Services to be essential for the provision of educational services or educational planning. The District will notify parents of eligible students prior to transfer of records. They may request and receive copies of records transferred under this provision. Transcripts will not identify courses as “special education” courses without the written consent of parent or eligible students.

- d. Records may be released without consent to federal and state officials in connection with evaluation of federally supported education programs or enforcement of federal requirements. Persons reviewing records under this provision must sign a written form, to be kept in the student’s folder, indicating their interest in the records.
- e. With the approval of the Superintendent, records may be released without consent to organizations, public and private, conducting studies for or on behalf of educational agencies for institutions. The District shall require recipients of such information to provide written assurances that personally identifiable information will not be further released and that all the information received will be destroyed when no longer needed for the study.
- f. Records may be released without consent to accrediting organizations to carry out their accrediting functions.
- g. Records may be released without consent to comply with judicial orders or lawfully issued subpoenas. A subpoena will be considered to be “lawfully issued” when it is issued by a court, or when counsel to the school has reviewed it and found it to be “lawfully issued.” Before making such a disclosure, the District must send written notice to the parent or eligible student.
- h. Records may be released without consent in health or safety emergencies, if such disclosure is deemed by the official making the disclosure to be warranted by the seriousness of the threat to the health or safety of the student or other persons and if the information is necessary to meet the emergency. Such records will be released without written consent only in the event that the person to whom the information is disclosed, is qualified to deal with the emergency and time is an important factor in dealing with the emergency.

### **Records of Request for Access to Education Records**

Current special education staff and administration have the right to continuous access to the special education student files. In addition, for all others, the District will maintain a record of all requests for disclosure of information from, or permission for access to, a student’s special or general education record and will keep a record of all information disclosed and access permitted. Such record will not include request for access by the parents who have responsibility for the student, the student, persons whose request is accompanied by prior written consent or a party seeking Directory Information. The access record will be kept with the cumulative record, or, in the case of records pertaining to special education, with those records. It will be available only to the record custodian,

the eligible student, the parent of the student, or to public officials for the purpose of auditing or enforcing the requirement of federally supported educational programs. The record will include:

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

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

### **Procedure for Maintaining Confidentiality of CSE/CPSE Records**

CSE/CPSE records and files are maintained in a secure location in the Special Education Office. The secretaries monitor access to student files. They acknowledge and are familiar with all staff who have access. Professionals visit the CSE/CPSE office when they need access to a file. The CSE/CPSE secretaries obtain the file and the professional proceeds to a designated area where review can take place. When the professional review is complete, the file is returned to the CSE/CPSE secretaries.

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

### **Procedures to Seek to Correct Education Records**

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

1. The parent or student shall notify the principal or Assistant Superintendent for Special Education & Pupil Services of objections and shall prepare and sign a statement identifying the records believed to be inaccurate, misleading or otherwise in violation of rights together with a reason for challenge. Upon receipt of such statement, the principal or Assistant Superintendent will hold an informal conference with the parent or student and, when possible, with the maker of the record. If after reviewing the record and objections to it, the principal or Assistant Superintendent finds no basis for amendment, he or she shall so advise the student or parent in writing and advise them of the right to a hearing.
2. The principal or Assistant Superintendent will also advise the student or parent of the right to place in the education record a statement on the challenged information and/or setting forth any reason for disagreeing with this decision. An explanation placed in an education record under this paragraph shall be maintained by the District as part of the education record as long as the record is maintained by the District. It will be released by the District with the education record whenever such release is authorized by the provisions of this policy.
3. An appeal from a hearing concerning the educational records of a regular educational student may be made to the FERPA Office of the U.S. Department of Education.

## **Hearing Process**

1. A hearing pursuant to paragraph 1 above will be held upon request and the parents will receive timely notice of the place, date and time. The hearing officer may be the Superintendent of Schools or a designated school official having no interest in the hearing's outcome. The parents may, at their own expense, be assisted or represented by one or more individuals of their choice, including an attorney, and will be afforded a full and fair opportunity to present evidence.
2. After taking evidence, the hearing officer shall render a written decision stating the disposition of the challenge and the reasons for the determination. If the hearing officer decides that the record is not accurate or is otherwise in violation of the rights of the student, he shall direct the principal or Assistant Superintendent for Special Education & Pupil Services to make the appropriate changes. Otherwise, he/she shall advise the parent of the right to place in the education record a statement commencing on the challenged information as described in paragraph 2 above.
3. A parent who disagrees with the findings of the hearing officer may request review by the Board of Education and in the case of special education records, by the Office of Special Education. Thereafter, special education records or entries in the cumulative record may be reviewed, at the federal level by the Family Policy and Regulation Office, U.S. Department of Education, Room 1087 FB 6400 Maryland Avenue S.W., Washington, D. C. 20202. In either case, a complaint may be in the form of a letter and should include specific claims of policy violations. If the Family Policy and Regulations Office finds the District to be out of compliance with applicable law and if resolution cannot be reached informally, the office may refer the case to the Compliance Board of the U.S. Department of Education for a formal resolution of the conflict before an administrative law judge.

## **Provisions Relating to Alcohol or Drug Abuse Services and Acquired Immune Deficiency**

Services provided within the District leading to direct referral for treatment will be subject to Federal Regulations on Confidentiality of Alcohol and Drug Abuse Patient Records. Information in verbal or written form, indicating participation in such program will not be released without the student's written consent.

All school personnel are required by law to protect the privacy of students or other people (i.e. family members) identified in student records as having AIDS or having tested positive for exposure to the virus. Each release of any such information requires the express written consent of the parent, or the student if over the age of eighteen (18). A separate consent is required for each disclosure. Consent for release of information that allowed a school to receive such information does not authorize disclosure by school personnel. Where it must be included, information covered by the provision of educational services and appropriate care shall be recorded separately from other information and, if authorized, released without AIDS-related information.

## **RECORDS NOT SUBJECT TO THIS POLICY**

The following records not subject to this policy:

- Records kept by a school staff member which are made as personal memory aids and which are not available to any other person.
- Employment records which are kept in connection with student employment by the District and which are not available for use for any other purpose.

## **SCHOOL CONDUCT AND DISCIPLINE**

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

Students with disabilities who are educated in the schools of the District are expected to meet District standards for school conduct and are subject to District-wide policy. However, when a student with a disability repeatedly violates school rules, the student will be reevaluated by the CSE to determine whether the inappropriate conduct is related to the disability and whether a change in services or placement is appropriate.

The following definitions apply:

**Behavioral intervention plan (BIP)** means a plan that is based on the results of the functional behavioral assessment and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies to address the behavior.

**Disciplinary change in placement** means a suspension or removal from a student's current education placement that is either:

- For more than ten (10) consecutive school days; or
- For a period of ten (10) consecutive days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

When a student with a disability is suspended or removed from his or her current placement for more than 10 consecutive school days or when a suspension or removal constitutes a disciplinary change of placement and the student's conduct is a manifestation of the student's disability, the CSE shall:

- conduct a functional behavioral assessment and implement a behavioral intervention plan, provided that the District had not conducted such assessment prior to the manifestation determination before the behavior that resulted in the change of placement, or
- if the student already has a behavioral intervention plan, the CSE shall meet to review the plan and its implementation and modify the plan and its implementation, as necessary, to address the behavior that resulted in the change of placement.

**Functional behavioral assessment (FBA)** means the process of determining why a student engages in behaviors that impede learning and how the student's behavior relates to the environment. The functional behavioral assessment includes, but is not limited to, the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior (including cognitive and affective factors) and the

formulation so a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequence that serve to maintain it.

**Interim alternate education setting (IAES)** means a temporary educational placement determined by the CSE, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall:

- continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the IEP; and
- receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

**Manifestation team meeting** means a meeting, which shall include a representative of the District knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members of the CSE, as determined by the parent and the District. The parent must receive written notification prior to any manifestation team meeting to ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.

**Superintendent's hearing** means a disciplinary hearing conducted pursuant to Education Law section 3214(3)(c) and (g) by a superintendent of schools, or a hearing officer designated by a superintendent of schools, to determine whether a student should be suspended from instruction for more than 5 consecutive school days.

### **CSE Responsibilities**

When a student with a disability is suspended or removed from the student's current placement for more than 10 consecutive school days or when a suspension or removal constitutes a disciplinary change of placement and the student's conduct is a manifestation of the student's disability, the committee on special education shall:

- conduct a functional behavioral assessment and implement a behavioral intervention plan for such student, provided that the school district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in the change in placement; or
- if the student already has a behavioral intervention plan, the CSE shall meet to review such plan and its implementation and modify the plan and its implementation as necessary, to address the behavior that resulted in the change in placement.

If subsequently, a student with a disability who has a behavioral intervention plan and who has been suspended or removed from his or her current educational placement for more than 10 school days in a school year is subjected to a suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more members of the CSE believe that modifications are needed, the school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.

A special education student may be suspended by a building principal more than once during a school year, but a series of short-term suspensions adding up to ten (10) days in the same school year may be considered a disciplinary change in placement, requiring prior evaluation and CSE review. Therefore, building principals, in consultation with the chairperson of the CSE, will monitor the total days and pattern of suspensions with respect to each special education student. If a student has already been suspended on multiple occasions, or if his/her behavior suggests that a “revolving door” pattern of suspensions is developing, the principal is expected to consult with the CSE before again suspending a student for disciplinary reasons.

In addition, if a special education student repeatedly violates school rules, any member of the professional staff of a school may ask the CSE to review the student’s placement. The parent is invited to the meeting. The Committee, after reevaluation or review of records, may determine that the student requires a different program, within or outside the District. The CSE may develop a behavioral intervention plan at that time or review the existing plan and its implementation to determine if modifications are necessary. The parent has the right to seek an independent evaluation or to appeal. The student’s class setting will not be changed during the course of the review or appeal procedures.

### **Superintendent’s Hearing on Disciplinary Charges Against a Student with a Disability**

Superintendent’s hearings on disciplinary charges against students with disabilities and students presumed to have a disability for discipline purposes shall be bifurcated into a guilt phase and a penalty phase and conducted in accordance with the following procedures:

- The Superintendent or hearing officer in the superintendent’s hearing shall proceed with the guilt phase and determine whether the student is guilty of the alleged misconduct. If it is determined that the student is guilty, the Superintendent or hearing officer shall determine whether a suspension or removal in excess of 10 consecutive school days in a school year or a disciplinary change in placement should be considered. If such a suspension or removal is considered, before the Superintendent orders or the hearing officer recommends any such removal, the Superintendent’s hearing shall be adjourned until a manifestation determination is made by the Manifestation Team, except in cases where an interim alternate education setting (IAES) has been ordered. If the superintendent or hearing officer determines that a suspension or removal that would constitute a disciplinary change in placement should not be considered, the hearing shall proceed to the penalty phase.
- Upon a determination by the Manifestation Team that the behavior of a student with a disability was not a manifestation of the student’s disability, the student may be disciplined in the same manner as a student without a disability, except that the student shall continue to receive services. Upon receipt of notice of the determination, the superintendent or hearing officer shall proceed with the penalty phase of the hearing. If the Manifestation Team determines that the behavior was a manifestation of the student’s disability, the Superintendent or hearing officer shall dismiss the superintendent’s hearing, except in cases when IAES has been ordered.
- The penalty phase of a superintendent’s hearing for a student with a disability or a student presumed to have a disability for discipline purposes shall be conducted in the same manner as the penalty phase of a hearing involving a non-disabled student, including the admission of anecdotal evidence of past instances of misconduct. The District shall assure that copies of the special education and disciplinary records of the student are transmitted to the Superintendent or hearing officer in the superintendent’s hearing for consideration. Such records shall be

transmitted whether or not the Manifestation Team has determined that the student's behavior is a manifestation of the student's disability.

- Upon a determination that the student is guilty of the alleged misconduct relating to serious bodily injury, weapons, illegal drugs or controlled substances, the Superintendent may order, or the hearing officer in the superintendent's hearing may recommend, such change in placement to an IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the length of time that a non-disabled student would be suspended for the same misconduct under the District's student discipline policy. The Superintendent may order such change in placement of a student with a disability to an IAES, directly or upon recommendation of a hearing officer in the superintendent's hearing, even where the Manifestation Team determines that the student's behavior is a manifestation of the student's disability.

### **Manifestation Determination Review**

A review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made immediately, if possible, but in no case later than 10 school days after:

- a decision is made by the Superintendent to change the placement of a student to an interim alternative educational setting; or
- a decision is made by an impartial hearing officer to place a student in an interim alternative educational setting; or
- a decision is made by the Board of Education, Superintendent, or building principal to impose a suspension that constitutes a disciplinary change in placement.

If a disciplinary action involving a change in placement for more than 10 school days is contemplated for a student with a disability who has engaged in any behavior that violated any rule or code of conduct of the District that applies to all children, a review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made immediately, if possible, but in no case later than 10 school days after the date on which the decision to take disciplinary action was made. This review will take place by a Manifestation Team in a meeting, which shall include a representative of the District knowledgeable about the student and the interpretation of information about child behavior, the parents and relevant members of the CSE as determined by the parent and the District. The parent must receive written notification prior to any Manifestation Team meeting to ensure that the parent has an opportunity to attend. The notification shall inform the parent of the purpose of the meeting, the names of the individuals expected to attend and inform the parent of his or her right to have relevant members of the CSE participate at the parent's request.

The Manifestation Team shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if:

- the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
- the conduct in question was the direct result of the District's failure to implement the IEP.

If the Manifestation Team determines that the above criteria are applicable to the student, the behavior shall be considered a manifestation of the student's disability. If the Manifestation Team determines that the conduct was a manifestation of the student's disability, the CSE shall:

- conduct a functional behavioral assessment and implement a behavioral intervention plan for the student; and
- except as provided for behavior involving serious bodily injury, weapons, illegal drugs or controlled substances, return the student to the placement from which he or she was removed, unless the parent and the District agree to a change of placement as part of the modification of the behavior intervention plan.

If, in its review, the Manifestation Team identifies deficiencies in the student's IEP or placement or in their implementation, it must take immediate steps to remedy those deficiencies.

### **Determination of Setting**

Students with disabilities who have been suspended or removed from their current placement for more than 10 school days may be placed in an interim alternative educational setting (IAES). The IAES shall be an educational setting other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES shall: (1) continue to receive educational services so as to enable the student to participate in the general education curriculum, although in another setting, and to progress toward the goals set out in the student's IEP; and (2) receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

### **Parent Notice of Disciplinary Removal**

No later than the date on which a decision is made to change the placement of a student with a disability to an IAES, or a decision is to impose a suspension or removal that constitutes a disciplinary change in placement, the parent shall be notified of the decision and shall be provided the procedural safeguards notice.

### **Parent Appeal**

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

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

When a parent requests a hearing to challenge the IAES or the manifestation determination, the student shall remain in the IAES pending the decision of the hearing officer or until the expiration of the time period discussed in sections "Authority of School Personnel" and "Authority of a Hearing Officer," whichever occurs first, unless the parent and the District agree otherwise.

If the student is placed in an IAES and school personnel propose to change the student's placement after the expiration of the IAES placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the current placement (the student's placement prior to the IAES), except where the student is again placed in an IAES by an Impartial Hearing Officer in an expedited hearing described below.

### **Authority of an Impartial Hearing Officer**

An impartial hearing officer may order a temporary change in placement of a student with a disability to an IAES, determined by the CSE, in a dangerous situation, for not more than 45 school days if the impartial hearing officer:

- determines that the District has demonstrated substantial evidence that maintaining the current placement is likely to result in injury to the student or to others;
- considers the appropriateness of the student's current placement;
- considers whether the District has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and
- determines that the interim alternative educational setting meets the requirements.

### **Expedited Hearing**

If school personnel maintain that it is dangerous for the student to be in the current placement during the pendency of the due process proceedings, the District may request an expedited hearing. An expedited due process hearing shall be completed within fifteen (15) business days of receipt of the request for a hearing, provided that the impartial hearing officer may grant specific extensions of times at the request of either the District or the parent. The impartial hearing officer shall mail a copy of the written, or at the option of the parents, electronic findings of fact and the decision to the parents, Board of Education and VESID within 5 business days after the last hearing date, but in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extension. In determining whether the student may be placed in the alternative educational setting or in another appropriate placement ordered by the hearing officer, the hearing officer shall apply the standards indicated in "Authority of a Hearing Officer."

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

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

A student who has not yet been determined to be eligible for special education and who has engaged in behavior that violated any rule or code of conduct of the District, including any behavior considered to create a substantial danger to himself or other, may assert any of the provisions described herein if the District had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A District shall be deemed to have knowledge that a child is a student with a disability if:

- the parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student

is in need of special education, provided that such expression of concern may be oral if the parent does not know how to write or has a disability that prevents written statements;

- the parent has requested an evaluation of the student; or
- a teacher of the student, or other personnel of the District, has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the Assistant Superintendent for Special Education & Pupil Services or to other supervisory personnel of the District in accordance with the District's established child find or special education referral system.

A student is not a student presumed to have a disability for discipline purposes if, as a result of receiving the information noted above:

- the parent of the student has not allowed an evaluation;
- the parent has refused special education services; or
- it was determined by the CSE that this student is not a student with a disability.

If the District determines that there is no basis for knowledge that a student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as students without disabilities who engaged in comparable behaviors. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. An expedited evaluation shall be completed no later than fifteen (15) school days after receipt of the request for evaluation. The CSE shall make a determination of eligibility of the student in a meeting held no later than five (5) school days after completion of the expedited evaluation. If the student is determined to be a student with a disability, taking into consideration information from the evaluation and information provided by the parents, the District shall provide special education and related services in accordance with the provisions of this part, except that, pending the results of the evaluation, the student shall remain in the education placement determined by school authorities, which can include suspension.

**Referral to Law Enforcement Authorities** – Nothing prohibits a District from reporting a crime committed by a student with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities. A District reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports a crime.

## **ACCESSIBILITY**

### **Access to Academic and Disciplinary Conferences**

It is the policy of the Oceanside District to assure access for parents of students with disabilities to school-initiated conferences with respect to educational planning or school discipline. Accordingly, a sign language interpreter will be provided, upon request, to hearing-impaired parents who require such assistance. Parents requiring this or other accommodations such as a translator or barrier-free site, to participate in meetings of the Committee on Special Education or Committee on Preschool Special Education are requested to notify, in writing, the Special Education Office at the beginning of the school year, at the time of enrollment, or at least five days prior to the scheduled meeting or activity.

### **Access to Programs and Extra-Curricular Activities**

Students with disabilities residing in the District have the opportunity to participate in all programs and activities administered by the District and available to the students enrolled in District public schools, providing that the students seeking to participate are otherwise qualified to participate in such programs and activities. These may include regular classroom instruction, occupational education programs, ESL programs, laboratory instruction, support services, extracurricular activities and programs, special assemblies and events and career education programs.

### **Access to Occupational Educational Opportunities**

Employment and educational opportunities, including vocational educational opportunities, are offered by the Oceanside Union Free District to boys and girls on an equal basis without discrimination on the basis of sex.

Discrimination on the basis of sex in education programs and activities is prohibited by Title IX. The District official responsible for the coordination of activities relating to non-Discrimination is the Assistant Superintendent of Curriculum, Instruction & Research. He will provide information, including information on complaint procedures, to any student or employee who feels that his/her rights under Title IX may have been violated by the District or its officials. In addition, any student or employee may make an inquiry or a complaint directly to the Federal Office for Civil Rights or New York State Division of Human Rights.

## **SCREENING PROCEDURES**

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

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

### **Screenings Are Conducted As follows:**

- Kindergarten Screening – all pre-kindergarten students are screened at the end of June prior to their scheduled entrance into kindergarten.
- New Entrant Screening – all new entrants are screened no later than December 1<sup>st</sup> of the school year of entry or within fifteen (15) days of transfer should the entry occur after December 1<sup>st</sup>.

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

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

The procedures to locate, identify, and evaluate all nonpublic school students with disabilities, including students attending religiously-affiliated schools residing in the District, must be comparable to activities undertaken for students with disabilities in public schools. A student who is enrolled in a nonpublic school and receives special education services is considered to be “dually enrolled” in both the nonpublic and the public schools.

The Board of Education is required to furnish special education programs and services to a student who is a resident of the District and who attends a nonpublic school located within New York State, upon the written request of the student’s parent. If a parent of a student with a disability wishes to have his or her child receive special education programs and services while enrolled in the nonpublic school, the parent must file a written request for special education services with the District of residence by June 1<sup>st</sup> of the year preceding the school year for which services are requested.

Section 3602-c of Education Law was amended in April 2006 to minimize disruption of services to students with disabilities while New York State awaited final federal regulations to implement section 612(a)(10) of IDEA. Section 3602-c of Education Law allows the District where the student resides to contract with the District in which the nonpublic school attended by the student is located or to provide such services directly *during the 2006-07 school year only*. Special education services to such parentally placed students with disabilities will continue without disruption for the 2006-07 school year as Education Law continues to require the District of residence of the nonpublic school student to ensure the provision of special education programs and services to such students in accordance with their 2006-07 IEPs and IEPs developed prior to the effective date of the federal regulations are binding on the District.

### **Implementation of IDEA 2004 and Non-Public School Students**

In accordance with State Education Department policy (Memorandum dated October 2006, entitled “Provision of Special Education Services to Parentally Placed Nonpublic Elementary and Secondary School Students with Disabilities”), the Oceanside District will continue to comply with the requirements in section 3602-c of NYS Education Law for the provision of special education services to students with disabilities enrolled in nonpublic elementary and secondary schools by their parents that were in effect prior to the 2006-07 school year. Education Law section 3602-c remains in effect and imposes requirements under New York law that exceed the requirements of federal law. The District will implement 2006-07 IEPs consistent with the following provision.

Section 3602-c of Education Law states: *“The District where the student resides must contract with the District in which the nonpublic school attended by the pupil is located, for the provision of services pursuant to this section, except that in the case of services to students with disabilities in the two thousand six--two thousand seven school year, the District of residence may contract with the District in which the nonpublic school attended by the student is located or may provide such services directly.”*

### **Provision of Special Education Services for the 2006-07 school year:**

In accordance with the above-referenced policy, the District will continue to provide services in 2006-07 as reflected on the student’s IEP, as required by section 3602-c of Education Law. In addition, as

a result of the new federal regulations, the following new federal requirements are also in effect for the 2006-07 school year:

- If a student with a disability is enrolled, or is going to enroll in a private school that is not located in the District where the student's parents reside, parental consent must be obtained before any personally identifiable information about the student is released between officials in the public District where the private school is located and officials in the public District where the student's parents reside.
- If a parent who has placed a student with a disability in a private school at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the District may not use the consent override procedures described in 34 Code of Federal Regulations (CFR) sections 300.300(a)(3) and (c)(1) and the District is not required to consider the student as eligible for services under 34 CFR sections 300.132 through 300.144.

**Provision of Special Education Services for the 2007-08 school year:**

The public District where the nonpublic school is located must begin to develop procedures for the evaluation and provision of special education services to students with disabilities enrolled in nonpublic schools located in their District for the 2007-08 school year in accordance with the new federal regulations. In this process, the District must consult with nonpublic school representatives and representatives of parents of parentally placed private school students with disabilities for nonpublic schools located within the boundaries of the District. Additional guidance will be issued by the NYS Education Department upon further changes to State law.

## **REIMBURSEMENT FOR UNILATERAL PLACEMENT IN A PRIVATE SCHOOL**

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

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

The cost of reimbursement may be reduced or denied if, at the most recent IEP meeting that the parents attended prior to the removal of the student from the public school, the parents:

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

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

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

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

### **CENSUS**

The Oceanside District conducts an annual census in accordance with Education Law and Commissioner's Regulations, Part 200.2. The purpose of the census is to locate and identify all students who reside in the District and who are suspected to have a disability. Students with disabilities identified through the census are reported to the Committee on Special Education (CSE) or the Committee on Preschool Special Education (CPSE). The register of such students and others referred to the committee as possibly having a disability shall be maintained and revised annually by the District CSE or CPSE, as appropriate. Procedures are implemented to assure the availability of statistical data to readily determine the status of each student with a disability in the identification, location, evaluation, placement and program review process.

In keeping with the District's Child Find responsibilities, the CSE/CPSE is notified of any new entrants that have been identified as disabled or are suspected of having a disability. The District also posts informational notices about referrals to the CSE/CPSE in local newspapers and on its website

### **DATA REQUIREMENTS**

The District has established procedures that are designed to record data on each student, and include at least the following types of data:

- student's name, address and birthdate;
- student's parents' names, address(es), and the native language of the student's home;
- student's suspected disability;
- dates of referral, evaluations, recommendations of the committee on special education, or committee on preschool special education, actual placement, and annual program reviews;
- site where the student is currently receiving an educational program;
- other student information as required by the Individuals with Disabilities Education Act (20 U.S.C. 1400 et.seq.) and federal regulations, including but not limited to the student's race, ethnicity, limited English proficiency status, gender and disability category; and
- if the student is not receiving an appropriate public education, the reason shall be described.

The data is organized so that it can readily be determined whether each student is receiving an appropriate public education, a partial education or no education at all. All persons involved in the collection of data shall have received prior training and written information regarding the procedures to be followed in collecting the data

A summary report of the students served is submitted to the State Education Department in a manner prescribed by the Commissioner.

### **SCREENING**

Chapter 53 of the Laws of 1980 requires local Districts to locate, identify and provide programs for those students who need special services, including students who are gifted. The District has developed a comprehensive diagnostic screening program for all kindergarten students, new entrants into the District, and students scoring below reference points on state examinations.

Screening programs are designed to obtain preliminary information regarding a child's development in the following areas:

- physical development;
- cognitive development;
- receptive and expressive language development;
- articulation skills; and
- motor development

Members of the professional staff administer screenings. Information collected as a result of the screening will become part of the student's school records. The District ensures that policies regarding confidentiality are established and that parents and children are informed of their rights to privacy. To assure that all students are screened in a fair and unbiased manner, every effort is made to conduct the screening in the child's primary language. Students whose screening indicates a possible disability will be referred to the CSE within fifteen (15) days.

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

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

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

The District will continue to provide space, to the extent available, for school-age students from other Districts who need self-contained classes not available in their home schools. The District will also continue to collaborate with Nassau BOCES in working towards N.Y. State Education Department's requirement to develop a regional plan that reduces the number of special education students in center based non-integrated settings.

## **METHODS FOR EVALUATING PROGRAM OBJECTIVES**

Through the use of assessment techniques including staff reports, interviews with faculty, parents and students, departmental meetings and site visits, formative data will be gathered relative to the success of the delineated program objectives. The data will be analyzed to provide summary information to assist the District in decision-making regarding revisions and modifications of programs, services and procedures.

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

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

- ongoing evaluation of student achievement using various standardized diagnostic tests and other teacher-made assessments;
- annual reviews of students' progress and programs, resulting in revised comprehensive IEPs;
- qualitative techniques such as teacher observations and conferences, classroom observations, anecdotal reports, and end-of-year student summaries;
- yearly departmental goal-setting by the Assistant Superintendent for Special Education & Pupil Services, which is reviewed by the Superintendent;
- triennial reevaluation of each pupil with a disability as outlined in Commissioner's Regulations; and
- biennial review of the District plan.

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

Effective May 16, 2002, Section 200.2 of the Regulations of the Commissioner was amended to implement Chapter 377 of the Laws of 2001. As a result of Chapter 377 and the implementing regulations, the Board of Education established a plan to ensure that every student with a disability who needs his or her instructional materials in an alternative format will receive those materials at the same time that they are available to non-disabled students. "Alternative format" is defined to mean any medium or format for the presentation of instructional materials, other than traditional print textbooks, that is needed as an accommodation for a disabled student enrolled in the District. It would include, but not be limited to, Braille, large print, open and closed caption audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

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

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

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

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

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

### **Ordering Timelines for State Assessments**

Braille and large-type booklets will be obtained, as needed, from the State Education Department for the elementary and intermediate state assessments and each Regents and Regents Competency

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

### **National Instructional Materials Accessibility Standards (NIMAS)**

The District will adopt the National Instructional Materials Accessibility Standards (NIMAS), which outlines a set of consistent and valid specifications for document source files created by K-12 curriculum publishers or other content producers that can be used to create accessible specialized formats of print instructional materials. Materials covered by NIMAS include printed textbooks and printed core materials that are written and published for use in elementary and secondary schools and that are required by the state or District for use by students in the classroom.

To facilitate access to instructional materials to meet NIMAS, the District will participate in the National Instructional Materials Accessibility Center (NIMAC), which will centralize the distribution of instructional materials in alternate formats and help guarantee timely provision of such materials to students. Through its participation in NIMAC, the District will be assured that purchases will include a provision that requires the publisher to produce NIMAS files and send those files to NIMAC by including the following language on contracts:

“By agreeing to deliver the materials marked with “NIMAS” on this contract or purchase order, the publisher agrees to submit a valid NIMAS file set to NIMAS at the American Printing House for the Blind, Inc. (APH). Should the vendor be a distributor of the materials and not the publisher, the distributor agrees to immediately notify the publisher of its obligation to submit NIMAS file sets of the purchased products to NIMAC. This is page \_\_\_ of \_\_\_ of this contract or purchase order.”

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

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

If a student requires additional materials in an alternative format, the special education teacher or school psychologist will be responsible for providing this information to the Assistant Superintendent for Special Education & Pupil Services, who will be responsible for arranging the provision of materials in an alternative format.

## **DISTRICT PROGRAMS & SERVICES**

In accordance with Commissioner's Regulations, the Oceanside Union Free District provides a full continuum of services for students with educational disabilities. These services are provided to District residents at no cost and in the least restrictive environment upon the recommendation of the Oceanside Committee on Special Education and with the approval of the Oceanside Board of Education.

Special education services recommended by the CSE are available to students with disabilities through the school year during in which they turn 21 years of age, or until a regular high school diploma has been attained, whichever shall occur first.

A description of each of the District's special education program/service options follows:

### **DECLASSIFICATION SUPPORT SERVICES**

The recommendation to declassify students with disabilities is the responsibility of the CSE. As declassification constitutes a significant change of identification and placement, the CSE shall reevaluate the student prior to making this recommendation. The nature of the reevaluation will be determined by reviewing existing data, including teacher and service provider reports and observations and reports and evaluations provided by the parent. The District may decide that no further data is needed and shall notify the parent of that determination. The notification will inform the parent of their right to request further assessment to determine whether the student continues to be a student with a disability. In conducting its review, the CSE will consider the student's ability to participate in instructional programs in general education, benefit from special education and continued eligibility to be identified as a child with a disability. Upon declassification, the CSE shall identify any declassification support services (DSS), including the projected date of initiation and duration of such services. Declassification support services may include counseling, resource room, consultant teacher services, related services and/or test accommodations. Services are provided for no more than one year from the date of declassification. Recommendations for declassification support services shall be forwarded to the building administrator who shall determine any additional educationally related support services, academic intervention services, or other services that may be appropriate for the student.

### **TRANSITIONAL SUPPORT SERVICES**

Transitional Support Services are provided to a regular or special education teacher to aid in the provision of appropriate services to a student with a disability who is transferring to a regular program or to a program or service in a less restrictive environment and are specified on the IEP. Services may include support services provided by special education teachers, related services providers, psychologists, supervisors, and/or other professionals to help the teacher address the needs of the student and to promote progress as the student moves to a less restrictive setting.

### **RELATED SERVICES**

Related services may be provided in conjunction with a regular education program or with special education program and services to meet the specific needs of a student with a disability. Related

services are provided by appropriate specialists, including District personnel, BOCES providers, independent contractors, or contracted agencies. Related services include, but are not limited to, speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and appropriate support services and includes the early identification and assessment of disabling conditions in students. The term does not include a medical device that is surgically implanted, or the replacement of such device.

### **CONSULTANT TEACHER**

Consultant Teacher services provide for direct and/or indirect services to a student with a disability who attends regular education classes and/or to such student's regular education teachers. These services are provided for a minimum of two hours per week as recommended by the CSE and specified on the IEP, and the total number of students with disabilities assigned to a consultant teacher shall not exceed 20. The special education teacher works either directly with the student in the classroom and/or indirectly with the teacher(s) by providing information about the student's needs and assisting in modifying curriculum, adapting instructional materials, and/or utilizing other strategies to support the student's progress in the curriculum. Direct services are provided to the student on an individualized or small group basis. Students with disabilities who have specific skill deficits but are able to make appropriate progress in the mainstream environment without the need for a separate setting may be appropriate for this service.

### **RESOURCE ROOM**

The Resource Room is designed to provide support to special education students who need supplemental specialized assistance to benefit from mainstream or special classes. Resource room services are provided for a minimum of three (3) hours per week and for a period not to exceed 50 percent of the school day. An instructional group that includes students with disabilities in a resource room program shall not exceed five students per teacher and the total number of students with a disability assigned to a resource room teacher shall not exceed 20 students at the elementary level or 25 students at the middle and high school levels. The service may be provided using a pull-out and/or push-in model

### **SPECIAL CLASS/INTEGRATED SETTING (COLLABORATIVE)**

Although collaborative and inclusion classes are not specifically defined in the continuum of services listed in the Part 200 Commissioner's Regulations, federal and state guidelines encourage and promote instructional models that provide support to students with disabilities in the least restrictive environment of the general education classroom. The collaborative model in the Oceanside District allows students with disabilities to participate in general education classes with non-disabled peers and have access to the general education curriculum, including Regents level coursework at the high school. The model is available to students in grades K-12 and staffed with a general education teacher and a special education teacher or teacher assistant in each academic subject area. Additional provisions are made for academic support period, which is used to address specific skill deficits and focus on pre- and post-teaching. The teachers utilize a variety of co-teaching strategies that serve to reduce the student-to-teacher ratio and provide intervention and support, as needed.

This setting is most appropriate for students who would benefit from receiving special education support services within the general education setting, rather than a special class. Special education services in these inclusive settings are designed to promote progress in the curriculum through the provision of academic, physical and/or behavioral support in conjunction with appropriate curriculum and instructional adaptations and modifications.

### **SPECIAL CLASS**

The primary focus of the District's special classes is to provide students with an instructional environment that offers specialized learning techniques, behavior management strategies and other special interventions. Opportunities for integration into an appropriate general education settings are provided based on individual needs and facilitated with appropriate support (e.g., aide), as needed. Due to the increased staffing ratio in each of the special classes, the intensity of the instruction is increased and the teachers are able to individualize to meet the diverse needs of the students. In addition to special education teachers, support may be provided by a teacher assistant and/or classroom aides. The size and composition of a special class shall be based on the similarity of the individual needs of the students in terms of academic/educational achievement and learning characteristics, social development, physical development and management needs. The needs of any individual student shall not significantly and consistently interfere with the instruction of the rest of the class.

Criteria for entering special classes from a less restrictive environment include a pattern of academic failure and skills deficits, which cannot be addressed by other interventions and services, including collaborative settings, resource room, consultant teacher, and/or related services. Students may also enter special classes by demonstrating behaviors, as a result of a disability, which preclude success within the mainstream class. In such cases, less restrictive interventions may not be sufficient.

### **SPECIAL CLASSES – BASIC SKILLS / AMBASSADOR / TOP PROGRAMS**

The District also organizes special classes that are designed to provide students with the skills, knowledge, and behaviors necessary to promote post secondary transition, including employment, community integration, self-advocacy and independent living. The content of the courses follows a prescribed curriculum that includes functional academics and remediation in reading, writing and mathematics, communication skills, food preparation, life skills, pre-employment skills, vocational skills, social skills and travel training. Students participate in a program of pre-vocational activities and work-study options in the school, community and/or in a vocational preparation program. Students in these settings will participate in general education classes and extracurricular activities to the maximum extent appropriate. It is anticipated that students in these settings may remain in school until age 18 or 21 and will earn an IEP diploma.

### **INTRA-DISTRICT TRANSFER**

Although every effort is made to provide placement in the student's home school, there may be instances that warrant that a student be transferred to another school within the District. Such determination shall be made on the student's level of achievement, social, physical or management needs. Situations that may necessitate an intra-District transfer may be related to an insufficient number of students at a particular grade to create a special class or service, more than a three (3) year age difference in the special class of students below 16 years of age, physical needs and/or individual management needs that necessitate placement in another school within the District.

## **OTHER PUBLIC DISTRICTS AND BOCES**

When a special education student demonstrates needs – social, physical, academic, and/or management - that cannot be addressed appropriately within the program/service options in the District, the CSE will consider an out-of-District placement. At all times, the CSE will first consider maintaining students in District by using additional related services and/or supports prior to making a recommendation to seek placement outside the District. When all attempts have failed, however, the CSE will determine the appropriate out-of-District setting that will address the student's needs and enable the student to benefit from instruction. The CSE will recommend placement of that student in the least restrictive environment from which benefit may be derived.

On occasion, the CSE may recommend a placement that is not acceptable to the referred agency. In such instances, the CSE will determine if any other alternatives exist at that level of restriction. If no such alternative placement is available at that level of restriction, the CSE shall recommend the next appropriate level of restriction.

The CSE and the Board of Education recognize that other agencies have responsibilities that may impact on placement for reasons that may not be educational in nature. When placement issues arise that are not of an educational nature, the CSE may suggest that the parent and/or the student access services of an appropriate agency (e.g., Department of Social Services, Family Court, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities).

## **PRIVATE DAY AND RESIDENTIAL SCHOOL PROGRAMS**

Private day and residential special education programs, approved by the State Education Department, are available for students who must be placed in more restrictive educational environments in order to benefit from educational services.

The CSE may recommend an approved nonpublic placement if it determines that the student cannot make appropriate educational gains, with support services, in any District class or in any class in another District or BOCES. District personnel monitor such placements throughout the year to ensure the appropriateness of programs, and the CSE will convene to assess the student's progress and determine readiness for movement to a less restrictive setting, as appropriate.

## **HOMEBOUND INSTRUCTION**

Students with disabilities may be recommended for homebound instruction by the CSE. Home instruction is viewed as the most restrictive educational environment as it does not provide opportunities for integration with non-disabled peers. It is usually recommended as an interim placement until another more appropriate setting is arranged. In certain situations, home instruction and appropriate related services may be considered by the CSE for a student with unique needs if such placement is in the least restrictive environment.

A student who is enrolled in the District but who cannot attend school for an extended period of time due to illness will be eligible for home or hospital instruction under the following circumstances:

- A written request is submitted by the parent to the building administrator, Director of Guidance, or Special Education Office.

- A letter is submitted by a physician or therapist describing the illness or injury and the amount of time that the student is expected to require home or hospital care. The physician should be the student's attending doctor or treating therapist and must be someone other than the parent of the student.
- The request will be reviewed by the School Physician and/or Chief Psychologist.
- Arrangements are made so that an adult will be at home with the student during the period in which instruction is provided.
- As appropriate, home instruction may be provided in an alternative setting (e.g., public library).
- Instruction for elementary school students will be provided for five (5) hours per week; secondary school students will receive ten (10) hours of instruction per week unless the CSE recommends otherwise.

## **TRANSPORTATION**

Transportation for students with disabilities will be provided in accordance with District policy and comply with all applicable laws, regulations and policies established by federal, state and local authorities.

If the CSE determines that, on the basis of the student's disability, transportation to an in-district program is required, specific recommendations will be made on the student's IEP. If the CSE recommends placement of a student with a disability to a school or program outside the District, transportation will be provided. Whenever possible and appropriate, transportation is provided with non-disabled peers.

In developing its recommendation for a preschool student with a disability to receive programs and services, the committee must identify transportation options for the student and encourage parents to transport their child at public expense where cost-effective.

Students with disabilities attending non-public schools at parent expense are provided with suitable transportation to and from the nonpublic school if the status of the child was first identified by the CSE prior to September 1, and such child attends such school for purposes of receiving services or programs similar to special education programs recommended by the CSE. Transportation for these students with disabilities to non-public schools chosen by the parents and provided consistent with NYS Education Law 4402 is subject to legislative reauthorization on a yearly basis.

## DISTRICT SPECIAL EDUCATION CLASSES

Each of the District's schools provides Consultant Teacher, Resource Room and related services for students with disabilities who have been recommended for such services by the CSE. In addition, the District has arranged for the following special class or special class/integrated setting (collaborative) placements:

| <b>School</b> | <b>Special Class Programs (2006-2007 School Year)</b>          | <b>Staffing Ratio</b> |
|---------------|--|-----------------------|
| 2             | Special Class/Integrated Setting (Collaborative), Grade 5      | *                     |
| 4             | Special Class/Integrated Setting (Collaborative), Grades 2, 3  | *                     |
| 5             | Special Class  | 8:1:3                 |
|               | Special Class  | 15:1:2                |
|               | Special Class/Integrated Setting (Collaborative), Grade 4      | *                     |
| 6             | Special Class  | 9:1:2                 |
|               | Special Class/integrated Setting (Collaborative) Kindergarten  | *                     |
| 7             | Special Class/Integrated Setting (Collaborative), Grades 9 -12 | *                     |
|               | Special Class (TOP)  | 15:1                  |
|               | Special Class (Ambassador)                                     | 12:1:2                |
|               | Special Class  | 12:1:1                |
|               | Special Class Math   | 15:1                  |
|               | Special Class ELA  | 15:1                  |
| 8             | Special Class  | 8:1:3                 |
|               | Special Class/Integrated Setting (Collaborative), Grade 1      | *                     |
| 9E            | Special Class/Integrated Setting (Collaborative), Grade 6      | *                     |
| 9M            | Special Class  | 8:1:3                 |
|               | Special Class/Integrated Setting (Collaborative), Grades 7, 8  | *                     |

\* The staffing ratio for the collaborative models provides for a small number of special education students (i.e., generally no more than 5 or 6) to have the support of a special education teacher or teacher assistant in the general education setting. Special education students in these settings are also provided with at least one academic support period per day with the special education teacher and/or teacher assistant in groups no larger than 15.

In arranging for special education placements and settings, the District is committed to providing services in the least restrictive environment and promoting opportunities for the integration of students with disabilities with non-disabled peers. The District reviews the provisions for special class and collaborative settings on an ongoing basis and considers appropriate models and services based on the needs of the students.

**IDENTIFICATION OF STUDENTS WITH DISABILITIES**

**NUMBER OF PUPILS SERVED LISTED BY TYPE OF DISABILITY  
AS OF DECEMBER 1, 2006 PD-1/4 REPORT**

| <b>SCHOOL-AGE STUDENTS BY DISABILITY</b> | <b># OF STUDENTS</b> |
|--|----------------------|
| Autism                                   | 48                   |
| Emotional Disturbance                    | 43                   |
| Learning Disability                      | 196                  |
| Mental Retardation                       | 12                   |
| Deafness                                 | 3                    |
| Hearing Impaired                         | 17                   |
| Speech or Language Impairment            | 200                  |
| Visual Impairment (includes Blindness)   | 1                    |
| Orthopedic Impairment                    | 5                    |
| Other Health Impairment                  | 157                  |
| Multiple Disabilities                    | 38                   |
| Deaf-Blindness                           | 0                    |
| Traumatic Brain Injury                   | 4                    |
| <b>TOTAL</b>                             | <b>724</b>           |

**NUMBER OF PUPILS SERVED LISTED BY AGE & SETTING  
AS OF DECEMBER 1, 2006 PD-1/4 REPORT**

**Table 1: In Regular School-Based Programs** in buildings attended by disabled and nondisabled students

| Time OUTSIDE Regular Classroom | Age Group |      |       |       |       |       |
|--------------------------------|-----------|------|-------|-------|-------|-------|
|                                | 4-5       | 6-11 | 12-13 | 14-17 | 18-21 | TOTAL |
| 20% or less                    | 41        | 250  | 86    | 186   | 11    | 574   |
| 21% to 60%                     | 0         | 3    | 2     | 24    | 10    | 39    |
| More than 60%                  | 5         | 15   | 8     | 12    | 4     | 44    |
| <b>Total</b>                   | 46        | 268  | 96    | 222   | 25    | 657   |

**Table 2: In Separate Settings:** Outside or regular school facilities in buildings which are attended by students with disabilities only.

| Type of Setting              | Age Group |      |       |       |       |       |
|------------------------------|-----------|------|-------|-------|-------|-------|
|                              | 4-5       | 6-11 | 12-13 | 14-17 | 18-21 | TOTAL |
| Special Public Day School    | 0         | 4    | 4     | 9     | 1     | 18    |
| Special Private Day School   | 0         | 1    | 0     | 5     | 5     | 11    |
| Public Residential Facility  | 0         | 0    | 0     | 0     | 0     | 0     |
| Private Residential Facility | 0         | 0    | 0     | 3     | 1     | 4     |
| Home                         | 0         | 1    | 0     | 3     | 4     | 8     |
| Hospital or Other Non-School | 0         | 0    | 0     | 0     | 0     | 0     |
| <b>Total</b>                 | 0         | 6    | 4     | 20    | 11    | 41    |

**Table 3: Other Specific Settings:** Districts do not place students in these settings. Instead, students are in these settings because of court decisions or parental choice.

| Time OUTSIDE Regular Classroom         | Age Group |      |       |       |       |       |
|--|-----------|------|-------|-------|-------|-------|
|  | 4-5       | 6-11 | 12-13 | 14-17 | 18-21 | TOTAL |
| County Correctional Facility           | 0         | 0    | 0     | 0     | 0     | 0     |
| Home Schooled at Parental Choice       | 0         | 1    | 0     | 0     | 0     | 1     |
| Parentally Placed in Non-Public School | 2         | 15   | 1     | 7     | 0     | 25    |
| <b>Total</b>                           | 2         | 16   | 1     | 7     | 0     | 26    |

**SCHOOL-AGE SPECIAL EDUCATION PROGRAMS AND SERVICES AS OF DECEMBER 1, 2006  
PD-1/4 REPORT**

|  | <b>Ages<br/>4-5</b> | <b>Ages<br/>6-21</b> |
|--|---------------------|----------------------|
| Count of school-age students provided special education services in District-operated programs.  | 46                  | 610                  |
| Count of school-age students who are <b>residents of this District and are parentally-placed in nonpublic schools located in this District</b> and who are provided publicly funded special education services.  | 0                   | 0                    |
| Count of school-age students who are <b>residents of other Districts and are parentally-placed in nonpublic schools located in this District</b> and who are provided publicly funded special education services.  | 0                   | 0                    |
| Count of school-age students placed by the CSE in other public District programs and provided special education programs and/or services. (Do not include in this line students placed in a Special Act District.)   | 0                   | 2                    |
| Count of school-age students provided special education services in programs operated by a Board of Cooperative Educational Services (BOCES).  | 0                   | 25                   |
| Count of school-age students provided special education services while enrolled in a Charter School.   | 0                   | 0                    |
| Count of school-age students provided special education services in approved private schools for students with disabilities, and State-supported schools listed in Section 4201 of the Education Law. Include students in all out-of-state residential placements. | 0                   | 15                   |
| Count of school-age students provided special education services by contracting with Special Act Districts, or in the New York State School for the Blind in Batavia or the New York State School for the Deaf in Rome.  | 0                   | 1                    |
| Number of students with disabilities who are <b>residents of this District and are parentally-placed in nonpublic schools located in other Districts</b> and who are provided publicly funded special education services.  | 2                   | 23                   |
| <b>TOTAL:</b> This number represents the total number of school-age students who are the primary responsibility of this District's CSE and are provided special education programs and/or services on December 1, 2005.  | 48                  | 676                  |

**EDUCATIONAL PLACEMENT OF PRESCHOOL STUDENTS WITH DISABILITIES  
AS OF DECEMBER 1, 2006 PD-1/4 REPORT**

| <b>Educational Environment</b>                           |  | <b>Age 3</b>               | <b>Age 4</b> | <b>TOTAL</b> |    |
|--|--|----------------------------|--------------|--------------|----|
| Students attending regular early childhood program       | In regular early childhood program at least 80% of time  | 21                         | 32           | 53           |    |
|  | In regular early childhood program 40% to 79% of time    | 3                          | 4            | 7            |    |
|  | In regular early childhood program less than 40% of time | 4                          | 2            | 6            |    |
| Students not attending a regular early childhood program | Attending a special education program                    | Separate class             | 2            | 2            | 4  |
|  |  | Separate school            | 14           | 14           | 28 |
|  |  | Residential facility       | 0            | 0            | 0  |
|  | Not attending a special education program                | Home                       | 5            | 0            | 5  |
|  |  | Service providers location | 0            | 0            | 0  |

**SPECIAL EDUCATION BUDGET**  
**2006-07 SCHOOL YEAR**

The budget to support special education programs and services in the  
Oceanside School District is as follows:

| CODE             | DESCRIPTION                         | AMOUNT            |
|------------------|-------------------------------------|-------------------|
| 2250.142.00.0000 | HOMEBOUND INSTRUCTION               | 30,000            |
| 2250.150.00.0000 | INSTRUCTIONAL SALARIES              | 3,660,856         |
| 2250.160.00.0000 | NON-INSTRUCTIONAL SALARIES          | 219,079           |
| 2250.162.00.0000 | SALARIES: AIDES/TEACHER ASSISTANTS  | 2,117,300         |
| 2250.428.00.0000 | TUITION PRIVATE SCHOOLS             | 2,188,158         |
| 2250.465.00.0000 | NON-INSTRUCTIONAL EQUIP MAINTENANCE | 1,000             |
| 2250.480.00.0000 | TEXTBOOKS                           | 8,600             |
| 2250.490.00.0000 | TUITION BOCES                       | 2,436,000         |
| 2250.510.00.0000 | MATERIALS & SUPPLIES                | 11,900            |
|                  | <b>TOTAL</b>                        | <b>10,672,893</b> |