



NEW JERSEY DEPARTMENT
OF CHILDREN AND FAMILIES

New Jersey Department of Children and Families Policy Manual

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Legal Basis

9-5-2006

New Jersey Administrative Code related to special education for students with disabilities is outlined in N.J.A.C. 6A:14, subchapters 1-10.

“According to N.J.A.C. 6A:14-1.1(c), the rules in Chapter 14 apply to all public and private agencies providing publicly funded educational programs and services to students with disabilities.

1. Programs and services shall be provided to students age three through 21.
2. Programs and services may be provided by a district board of education at its option to students below the age of three and above the age of 21.
3. Each district board of education shall provide information regarding services available through other State, county and local agencies to parents of children with disabilities below the age of three. (N.J.A.C. 6A:14-1.1(c))”

The Department of Education (DOE) is responsible for ensuring the education of all students with disabilities. “The DOE shall:

1. Ensure that all students with disabilities . . . including students with disabilities who have been suspended or expelled from school, have available to them a free, appropriate public education as that standard is set under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§1400 et seq.);
2. Ensure that the obligation to make a free, appropriate public education available to each eligible student begins no later than the student's third birthday and that an individualized education program is in effect for the student by that date;
3. Ensure that a free, appropriate public education is available to any student with a disability who needs special education and related services, even though the student is advancing from grade to grade;

4. Ensure that the services and placement needed by each student with a disability to receive a free, appropriate public education are based on the student's unique needs and not on the student's disability;
5. Ensure that the rights of students with disabilities and their parents are protected. (N.J.A.C. 6A:14-1.1(b))”

The Department of Education has developed policies and procedures for mediation conferences and due process hearings which assure the rights of students with disabilities and the rights of their parents.

Refer specific issues not addressed in this policy to the Department of Education through the Department of Children and Families, Office of Education, 10 Quakerbridge Plaza, P.O. Box 710, Trenton, NJ 08619, 609-588-3165. See N.J.A.C. 6A:14, subchapters 1-10, for the entire administrative code related to special education.

Definition of Terms

9-5-2006

“The following terms are defined at N.J.A.C. 6A:14-1.3:

"Adult student" means a person who has attained age 18, who is not under legal guardianship and who is entitled to receive educational programs and services in accordance with Federal or State law or regulation.

"District board of education" means the school district of residence, the board of trustees of a charter school, the State agency or other public education agency which acts as the district of residence for the location, identification, evaluation, determination of eligibility, development of an individualized education program and the provision of a free appropriate, public education to students with disabilities except as defined otherwise.

"Individualized education program" (IEP) means a written plan which sets forth present levels of academic achievement and functional performance, measurable annual goals and short-term objectives or benchmarks and describes an integrated, sequential program of individually designed instructional activities and related services necessary to achieve the stated goals and objectives. This plan shall establish the rationale for the student's educational placement, serve as the basis for program implementation and comply with the mandates set forth in this chapter.

"IEP team" means the group of individuals who are responsible for the development, review and revision of the student's individualized educational program.

"Parent" means the natural or adoptive parent, the legal guardian, foster parent when willing to so serve, a surrogate parent who has been appointed according to N.J.A.C. 6A:14-2.2(a) through (i), a person acting in the place of a parent (such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student's welfare). Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights under N.J.A.C. 6A:14. For the

purposes of this chapter, the term "parent" shall include the adult student as defined at N.J.A.C. 6A:14-1.3.

"Referral" means the written request for an initial evaluation to determine whether a student is eligible for services . . .

"Related services" is defined in accordance with the definition of the term set forth in IDEA and its implementing regulations, as amended and supplemented, incorporated by reference herein and reproduced at N.J.A.C. 6A:14 Appendix B.

"Special education" is defined in accordance with the definition of the term set forth in IDEA and its implementing regulations, as amended and supplemented, incorporated by reference herein and reproduced at N.J.A.C. 6A:14 Appendix C.

(N.J.A.C. 6A:14-1.3)

"Surrogate Parent" means an individual who is identified by the district board of education to assume the parental rights of a student for the purpose of educational planning.

"Student" means a person age three through 21 who is entitled to receive educational programs and services in accordance with Federal or State law or regulation. (N.J.A.C. 6A:14-1.3)"

For the purposes of this policy, the term "parent" means the person who is serving as the parent for educational purposes. This may be the biological/adoptive parent, foster parent or another person appointed as the surrogate parent.

For the purpose of this policy, the term "kinship caregiver" shall include a relative or family friend.

Role of the CP&P Worker

10-27-2014

The role of CP&P in the educational process includes: serving as a support and advocate to the student and parent(s); assisting the district board of education; consulting with the Deputy Attorney General; and maintaining confidentiality.

The role of the Worker as a support and advocate to the student and parent(s) includes:

- Referring a student to the district board of education for determination of special education and related services according to N.J.A.C. 6A:14-3.3(b), which states that the board “referral procedures shall provide for referral by . . . parents and agencies concerned with the welfare of students”; and/or
- Participating in meetings on behalf of a disabled student in accordance with N.J.A.C. 6A:14-2.3(k)1vi and (k)2vii, which state:
 - “. . . other appropriate individuals at the discretion of the parent or school district” may participate in the meeting to determine eligibility of a student; and

- meetings of the IEP team shall include, “at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student,…”

The Worker assists the district board of education by:

- determining whether the biological/adoptive parent(s) retains the right to consent to educational decisions; and
- identifying an individual who may serve as a surrogate parent, when the biological/adoptive parent(s) does not retain the right to consent.

“If the district board of education cannot ascertain the whereabouts of the parent, the foster parent, unless that person is unwilling to do so, shall serve as the parent pursuant to N.J.A.C. 6A:14-1.3. If there is no foster parent, or the foster parent is unwilling to serve as the student's parent, the district board of education shall consult with the student's case manager at DCP&P to assist in identifying an individual to serve as a surrogate parent and appoint a surrogate parent and obtain all required consent from, and provide written notices to, the surrogate parent.” N.J.A.C. 6A:14-2.2(i)”

A CP&P employee cannot give verbal or written consent for educational decisions.

CP&P consults with the Deputy Attorney General (DAG) when a parent is contacted and is unable, or refuses, to cooperate in the educational process.

The role of the Worker in the educational process also includes:

- maintaining confidentiality by releasing only information related to the child and parent(s) involving abuse/neglect to the extent that the district board of education needs the information to provide educational services to the child. See [CP&P-IX-G-1-100](#); and
- notifying the district board of education when CP&P has legal custody of the child and has determined, in consultation with the Deputy Attorney General (DAG), that a biological/adoptive parent, if contacted by the school, may pose a risk to the safety of the child or to the security of a resource parent, school staff or other individual upon learning the location of the child's school.

In such situations, the Worker may assist by recommending alternative ways the biological/adoptive parent can participate in the educational process. This may include: facilitating telephone conferencing between the school and biological/adoptive parent; providing written material to and from the district board of education; forwarding documents to the biological/adoptive parent by facsimile machine or through the mail to obtain required signatures; etc.

Note: January 2013, the Family Education Rights and Privacy Act (FERPA) under the Uninterrupted Scholars Act (USA), was amended to allow schools to release the education records of children in foster care to child welfare agencies, without parental

consent. This amendment also eliminates the requirement for educational agencies to notify parents prior to the release of education records to a child welfare agency.

Parental Consent, Notification and Participation

9-5-2006

A parent(s) can refer his or her child to the district board of education for a determination of eligibility for special education and related services. A parent(s) can play an integral role in the assessment and decision-making process to determine whether his or her child is eligible to receive special educational and related services, and if so, the nature and scope of the services.

“If the parent retains the right to make educational decisions and the parent's whereabouts are known to the district board of education, the school shall obtain all required consent from and provide written notices to the parent. (N.J.A.C. 6A:14-2.2(h))

When a determination is made to conduct or not to conduct an initial evaluation, . . . the parent shall be provided with copies of the special education rules (N.J.A.C. 6A:14), and due process hearing rules (N.J.A.C. 1:6A). (N.J.A.C. 6A:14-2.3(i))

A district board of education shall take steps to ensure that the parent is given the opportunity to participate in meetings regarding the identification, evaluation, classification, educational placement of, or the provision of a free, appropriate public education to the student. (N.J.A.C. 6A:14-2.3(j))”

The parent(s) is interviewed as a required part of the initial evaluation process. The district board of education provides evaluation reports(s), documentation and information resulting from the initial evaluation to the parent(s).

Once a student is determined eligible for special education and related services, parental consent is sought prior to implementing the Individualized Education Program (IEP) and releasing the student's record.

In accordance with N.J.A.C. 6A:14-2.3(h)1, a parent(s) is provided written notice no later than 15 calendar days after making a determination when the district board of education:

- “Proposes to initiate or change the identification, classification, evaluation, educational placement of the student or the provision of a free, appropriate public education to the student; or
- Declines to initiate or change the identification, classification, evaluation, educational placement of the student or the provision of a free, appropriate public education to the student. (N.J.A.C. 6A:14-2.3(f))”

Written notice includes:

- A description of the action proposed by the district board of education;
- An explanation of why such action is being taken;
- A description of any other options that were considered and, if other options were rejected, the reasons for such;

- A description of the procedures, tests, records, reports and any other factors used to propose or deny action; and
- A statement explaining the procedural safeguards for parents of a student with a disability published by the New Jersey Department of Education, and assistance with interpretation of the provisions.

“The parent, adult student or their designated representative shall be permitted to inspect and review the contents of the student's records maintained by the district board of education under N.J.A.C. 6A:32 without unnecessary delay and before any meeting regarding the IEP. (N.J.A.C. 6A:14-2.9(b))”

When a student is in out-of-home placement, the CP&P Worker shall assist the district board of education to assure that confidential information regarding a biological/adoptive parent or resource parent is not divulged during a record review.

A parent(s) can request mediation or a due process hearing if in disagreement with the proposed action by the district board of education.

A parent(s) can refuse to provide consent to a proposed action. The district may request a due process hearing in accordance with N.J.A.C. 6A:14-2.7(b) to obtain consent.

Surrogate Parent

6-26-2013

A biological/adoptive parent(s) retains the right to make educational decisions for his or her child who is in a resource family care placement unless:

- The biological/adoptive parent(s) cannot be identified;
- The biological/adoptive parent(s) cannot be located; or
- An agency of the State of New Jersey is named legal guardian of the student through voluntary or involuntary termination of parental rights.

When such circumstances exist, N.J.A.C. 6A:14-2.2 establishes guidelines for the provision of an individual to act as a surrogate on behalf of a child who may not have a parent(s) available to protect his or her rights in the education process.

“The person(s) serving as a surrogate parent may not be an employee of the Department of Education, the district board of education or a public or nonpublic agency that is involved in the education or care of the child. (N.J.A.C. 6A:14-2.2(f))”

Thus, a CP&P employee cannot act as a surrogate parent, pursuant to N.J.A.C. 6A:14-2.2(f), but may assist the district board of education (school district of residence) in selecting an individual to serve as a surrogate parent. CP&P may identify, and the district board of education may appoint, a child's resource parent to serve as a surrogate parent.

Any information about the child's parent(s) that is protected by law and regulation governing confidentiality shall not be divulged to, or discussed in front of, the surrogate parent. The surrogate parent is permitted to have information needed for supervision of

the child's education and is advised of his/her responsibility to maintain confidentiality of the information released to him/her.

The school district is responsible for establishing a method to select and train surrogate parents.

Resource Parent as Surrogate Parent

6-26-2013

“When a student (who is or may be a student with a disability) is in the care of a foster parent, and the foster parent is not the parent of the student as defined in N.J.A.C. 6A:14.1.3, the district board of education where the foster parent resides shall contact the student's case manager at the Division of Child Protection and Permanency in the Department of Children and Families to:

1. Determine whether the parent retains the right to make educational decisions; and
2. Determine the whereabouts of the parent. (N.J.A.C. 6A:14-2.2(g))

If there is no foster parent, or the foster parent is unwilling to serve as the student's parent, the district board of education shall consult with the student's case manager at DCP&P to assist in identifying an individual to serve as a surrogate parent and appoint a surrogate parent and obtain all required consent from, and provide written notices, the surrogate parent. (N.J.A.C. 6A:14-2.2(i))“

The CP&P Worker shall consult with his or her Supervisor and the assigned DAG prior to assisting the district board of education in identifying an individual, such as a foster parent, to be named the surrogate parent. The DAG may recommend the Worker consult with the child's Law Guardian as well.

Any information about the child's parent(s) that is protected by laws and regulations governing confidentiality shall not be divulged to, or discussed in front of, the foster parent. The foster parent is advised of his/her responsibility to maintain confidentiality of the information released to him/her.

When there is a question about discussing confidential information, the Worker shall consult the DAG.

If a foster parent cannot serve as the surrogate parent, the district board of education, in consultation with CP&P, shall appoint another person to serve as a surrogate parent.

“A person serving as a surrogate parent shall have no interest that conflicts with those of the student he or she represents. (N.J.A.C. 6A:14-2.2(e)1)”

Children in Adoptive Homes

12-15-2003

“N.J.A.C. 6A:14-1.3 defines parent as the natural or adoptive parent” Therefore, when a child is placed in an adoptive home on the basis of CP&P having guardianship, or when a parent(s) has executed a Surrender of Custody and Consent to Adoption, CP&P Form [14-86](#), or [14-86\(S\)](#), and the Deputy Attorney General (DAG) gives

authorization for clearance of surrenders, the adopting parent(s) can, and should, be called on to consent to educational decisions on behalf of the child.

Student Referred for Special Education and Related Services 9-5-2006

Each district board of education develops written procedures for referral of students who may be disabled due to physical, sensory, emotional, communication, cognitive or social difficulties.

The referral can request:

- Intervention to assist students in the general education program;
- An evaluation to determine eligibility for special education and related services; or
- Other educational action that may be deemed appropriate.

A referral can be made by:

- A teacher;
- Administrative school staff;
- Other professional school staff;
- A parent(s); or
- An agency concerned with the welfare of a student (e.g., CP&P).

“Interventions in the general education setting shall be provided to students exhibiting academic difficulties and shall be utilized, as appropriate, prior to referring a student from an evaluation of eligibility for special education and related services. (N.J.A.C. 6A:14-3.2(b))”

In accordance with N.J.A.C. 6A:14-3.3(d), “a direct referral to the child study team may be made when it can be documented that the nature of the student's educational problem(s) is such that evaluation to determine eligibility for special education services . . . is warranted without delay.

The parent may make a written request for an evaluation to determine eligibility for services Such a request shall be considered a referral and shall be forwarded without delay to the child study team for consideration.”

When a student is referred for an initial evaluation to determine eligibility for special education programs and services, a meeting convenes within 20 calendar days of receipt of the written request.

The participants in the meeting include the child study team, parent(s) and a regular education teacher, preferably one who has knowledge of the student's educational performance.

The participants in the meeting conclude whether an evaluation is warranted, the nature and scope of the evaluation, and/or if additional information is needed.

“When it is determined that an evaluation for eligibility for services . . . is warranted, the student shall be considered identified as potentially a student with a disability. (N.J.A.C. 6A:14-3.3(f))”

Once the decision is made to complete the initial evaluation, a determination for eligibility for services is made. If the student is found eligible, development and implementation of the IEP must be completed within 90 calendar days.

Initial Evaluation

12-15-2003

The district board of education requests and obtains parental consent prior to conducting an initial evaluation of a preschool or school-age student.

The child study team is a multidisciplinary team consisting of the following professionals:

- A School Psychologist, who assesses the student's cognitive ability, social and emotional status and adaptive functioning;
- A School Social Worker, who evaluates the student's social functioning and emotional development, and social or cultural factors that may impact on the student's learning;
- A Learning Disabilities Teacher-Consultant, who assesses the student's academic performance and learning characteristics; and, in some cases,
- A Speech-Language Specialist, who assesses receptive and expressive language skills and articulation.

Child study team members or specialists conduct the evaluation by reviewing:

- Existing evaluation data on the student, including evaluations and reports provided by the parents;
- Current classroom assessments and observations; and
- Observation of the student by teachers and other professionals.

An initial evaluation includes:

- An assessment by at least two members of the Child Study Team and other specialists in the area of the disability, if necessary;
- Standardized tests, as necessary or when required;
- An assessment of academic performance and behavior, as necessary, which includes:
 - at least one structured observation by one evaluator, other than in a testing session,
 - an interview with the student's parent(s),
 - an interview with the referring teacher,
 - a review of the student's developmental/educational history,
 - a review of documented interventions by teachers and other school staff, and
 - one or more informal measure(s), which may include self-report or curriculum-based assessment; and

- An assessment for a student age 14, or younger if necessary, to project post-secondary outcomes, such as employment goals and/or other adult living objectives. A written report of the results of each assessment is prepared either collaboratively by the evaluators, or by each individual evaluator, who certifies his or her report.

The report includes:

- An appraisal of the student's current functioning and an analysis of instructional implications;
- A statement regarding reported or observed relevant behavior of the student and how it relates to the student's academic functioning;
- Whether the assessment was conducted under standard conditions and, if not, how the conditions varied from the standard;
- When the student is suspected of having a specific learning disability, documentation of eligibility which states:
 - whether the student has a specific learning disability,
 - the basis for making that decision,
 - the relevant behavior noted during the observation,
 - the relationship of the behavior to the student's academic performance,
 - relevant medical findings,
 - whether there is a severe discrepancy between achievement and ability that cannot be corrected without special education or related services, and
 - the effects of environmental, cultural or economic disadvantages.
- The school nurse submits a summary to the child study team for consideration of a health appraisal or specialized medical evaluation.

The reports and assessments from the child study team members and specialists, if any, are submitted to the IEP team who may accept or reject the entire report(s) or any part of the report(s).

Determination of Eligibility

9-5-2006

“When an initial evaluation is completed for a student age three through 21, a meeting . . . shall be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation report(s) and documentation and information that will be used for a determination of eligibility shall be given to the parent not less than 10 calendar days prior to the meeting. (N.J.A.C. 6A:14-3.5(a))”

The participants in the meeting include:

- The parent(s);
- The student, when appropriate;
- A teacher knowledgeable about the student's educational performance;
- At least one child study team member who participated in the evaluation;
- The child study team Worker;
- Other individuals, at the discretion of the parent(s) or school district; and

- School personnel who referred the student, or the school Principal or designee.

When a student is in out-of-home placement, the CP&P Worker shall assist the district board of education to assure that confidential information regarding a biological/adoptive parent or foster parent is not divulged during the review of evaluation report(s), documentation and information used for a determination of eligibility.

When a parent poses a risk to the safety of a participant in the meeting, alternate measures to include the parent in the educational planning process shall be taken.

A student's eligibility is determined collaboratively by the participants.

“. . . If eligible, the student shall be assigned the classification "eligible for special education and related services." (N.J.A.C. 6A:14-3.5(a))”

Classification Categories

5-18-2009

A classification of "eligible for special education and related services" indicates a student has a disability that adversely affects his or her educational performance. A disability shall fall into one or more of the following categories, which are briefly defined:

- "Auditorily impaired" means an inability to hear within normal limits that is characterized by deafness or hearing impairment, whether permanent or fluctuating.
- "Autistic" means a pervasive developmental disability which significantly impacts verbal and nonverbal communication and social interaction.
- "Cognitively impaired" (mentally retarded) means a disability characterized by significantly below average general cognitive functioning, concurrently with deficits in adaptive behavior, which ranges from mild to severe cognitive impairment.
- "Communication impaired" (communications handicapped) means a language disorder in the areas of grammar, language rules, word formations, sentence structure, and/or semantics that is not primarily due to an auditory impairment.
- "Deaf/blindness" means concurrent hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that a child cannot be accommodated in a special education program solely for students with deafness or students with blindness.
- "Emotionally disturbed" means a condition exhibiting one or more of the following characteristics over a long period of time:
 - an inability to learn that cannot be explained by intellectual, sensory or health factors;
 - an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
 - inappropriate behaviors or feelings under normal circumstances;
 - a general, pervasive mood of unhappiness or depression; and/or

- a tendency to develop physical symptoms or fears associated with personal or school problems.
- "Multiply disabled" (multiply handicapped) means the presence of two or more disabling conditions.
- "Orthopedically impaired" means a disability characterized by a severe orthopedic impairment including malformation, malfunction or loss of bone, muscle or tissue. Medical assessment is required for documentation.
- "Other health impaired" means a disability characterized by having limited strength, vitality or alertness, including a heightened alertness with respect to the educational environment. The disability is due to chronic or acute health problems, such as attention deficit disorder or attention deficit hyperactivity disorder, a heart condition, tuberculosis, rheumatic fever, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes or other medical condition such as Tourette Syndrome. A medical assessment is needed for documentation.
- "Preschool child with a disability" means an identified disabling condition and/or a measurable developmental impairment which occurs in children between the ages of three to five years.
- "Social maladjustment" means a consistent inability to conform to the standards for behavior established by the school. The behavior is disruptive to the student and other students.
- "Specific learning disability" (perceptually impaired) means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, including conditions such as brain injury, minimal brain dysfunction and dyslexia. This disorder is characterized by a severe discrepancy between the student's current achievement and intellectual ability in a specific area or areas such as reading comprehension, listening comprehension, mathematical computation, and/or written expression.
- "Traumatic brain injury" (neurologically impaired) means an acquired open or closed head injury resulting in impairment in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual and motor abilities; psycho-social behavior; physical functions; information processing; and speech.
- "Visually impaired" means an impairment in vision, and includes both partial sight and blindness.

For complete definitions of disability classifications, see N.J.A.C. 6A:14-3.5, Determination of Eligibility for Special Education and Related Services. View State regulations governing special education, N.J.A.C. 6A:14, at the New Jersey Department of Education's website, www.state.nj.us/education.

Development and Content of the IEP

9-5-2006

"The parent, adult student or their designated representative shall be permitted to inspect and review the contents of the student's records maintained by the district board

of education under N.J.A.C. 6A:32 without unnecessary delay and before any meeting regarding the IEP. (N.J.A.C. 6A:14-2.9(b))”

When a student is in out-of-home placement, the CP&P Worker shall assist the district board of education to assure that confidential information regarding a biological/adoptive parent or foster parent is not divulged during a record review.

“A meeting to develop the IEP shall be held within 30 calendar days of a determination that a student is eligible for special education and related services or eligible for speech-language services. An IEP shall be in effect before special education and related services are provided to a student with a disability and such IEP shall be implemented as soon as possible following the IEP meeting. (N.J.A.C. 6A:14-3.7(a))”

In the development of the IEP, the IEP team considers:

- Strengths of the student;
- The parent's educational concerns;
- Results of the student's initial evaluation;
- Behavioral strategies, interventions and supports;
- Language and communication needs of the student;
- Instruction and use of Braille;
- Need for technology devices and services; and
- Transitional services and/or technical consultation from the Division of Vocational

Rehabilitation Services for students 14 years of age and over.

“Students with disabilities shall be educated in the least restrictive environment. To the maximum extent appropriate, a student with a disability is educated with children who are not disabled. (N.J.A.C. 6A:14-4.2(a))”

In accordance with N.J.A.C. 6A:14-3.7(e), the IEP includes, but is not limited to:

- The student's present level of educational performance;
- The student's measurable annual goals and how progress toward goals is measured;
- A statement indicating how the parent(s) will be regularly informed of progress toward goals and ability to achieve set goals;
- Special education and related services, supplementary aids and services that shall be provided to the student, program modifications and/or supports;
- An explanation of the extent, if any, to which the student shall not participate with students in the general education class and in extracurricular and nonacademic activities;
- Individual modifications for the student during state or district testing of achievement;
- The projected date for service initiation, frequency, location, duration and modifications, including frequency and amount of instructional time for in-class resource programs;

- State and local graduation requirements for students 14 years of age and older;
- A statement of the student's transition from elementary to secondary school;
- Transition service needs of the student 14 years of age into vocational rehabilitation or other transitional services;
- Identification of transition service needs for students 16 years of age, with interagency responsibilities or linkages and development of employment objectives, adult living objectives, and daily living skills;
- Identification of the person responsible for making the necessary transitional referrals on behalf of the student; and
- A statement informing the student and parent, at least three years before
 - the student turns 18 years of age, that the rights under N.J.A.C. 6A, Chapter 14, will transfer to the student upon reaching the age of majority.

“When a student with a disability transfers from one New Jersey school district to another . . . the child study team of the district into which the student has transferred shall conduct an immediate review of the evaluation information and the IEP. (N.J.A.C. 6A:14-4.1(g))”

Reevaluation

9-5-2006

“Within three years of the previous classification, a multi-disciplinary reevaluation shall be completed to determine whether the student continues to be a student with a disability. Reevaluation shall be conducted sooner if conditions warrant or if the student's parent or teacher requests the reevaluation. When a reevaluation is conducted sooner than the three years from the previous evaluation as set forth above, the reevaluation shall be completed in accordance with the timeframes in (e) below (at N.J.A.C. 6A:14-3.8(e)). (N.J.A.C. 6A:14-3.8(a))

A reevaluation shall be conducted when a change in eligibility is being considered (N.J.A.C. 6A:14-3.8(d))”

Parental consent is required prior to conducting an assessment as part of a reevaluation.

As part of the reevaluation process the IEP team reviews:

- Existing evaluations and information provided by the parent(s);
- Current classroom-based assessments and observations; and
- Observations by teachers and other service providers.

If additional data is needed, the IEP team determines which child study team members and/or specialist will administer the tests and/or other assessment procedures to determine:

- Whether the student continues to have a disability;
- The current level of performance and educational needs of the student;

- Whether the student needs special education and related services; and
- Whether additions or modification to the student's special educational program are needed to enable him or her to meet the goals in the IEP and to participate in the general educational curriculum.

When a reevaluation is completed, an IEP team meeting is held to determine whether the student continues to be a student with a disability. The parent(s) receives a copy of the evaluations or reports completed as part of the reevaluation process and is notified of, and asked to participate in, the meeting.

If the determination is made that the student remains eligible for special education and related services, the parent(s) is notified of, and asked to participate in, the IEP team meeting conducted to review and revise the student's IEP.

Mediation Conference

9-5-2006

Mediation is a voluntary process available to resolve disputes between the parent(s) and the district board of education for students who may be eligible for special education and related services regarding:

- Identification;
- Evaluation;
- Classification;
- Educational placement; and
- The provision of a free, appropriate public education.

Mediation is available from the Department of Education and initiated, in writing, through the Office of Special Education Programs. The party initiating the request for mediation sends a copy of the written request to the other party. The mediation conference is conducted by a mediator within 10 calendar days after receipt of a written request in accordance with N.J.A.C. 6A:14-2.6.

When the mediation results in agreement between the parties, a written agreement is drawn up and signed by each party in the dispute. A mediation which does not result in agreement shall be documented by the mediator, with the date the mediation occurred and a list of the participants.

“A request for mediation shall not be used to deny or delay the right to request a due process hearing. (N.J.A.C. 6A:14-2.6(a)1)”

Due Process Hearing

9-5-2006

“A due process hearing is an administrative hearing conducted by an administrative law judge. (N.J.A.C. 6A:14-2.7(a))”

The request for a due process hearing is made in writing to the State Director of the Office of Special Education Programs. The party initiating the request for the due process hearing sends a copy of the request to the other party. Information regarding

free and low cost legal services is given to the parent(s). Both parties are offered mediation services.

For students age three through 21 years, a parent(s) may request a due process hearing when there is a disagreement regarding:

- Identification;
- Evaluation;
- Reevaluation;
- Classification;
- Educational placement;
- Provision of a free appropriate public education; or
- Disciplinary action.

In addition to the issues mentioned above, . . . the district board of education or public agency responsible for the development of the student's IEP may request a due process hearing when it is unable to obtain required consent to conduct an initial evaluation or a reevaluation, or to release student records. (N.J.A.C. 6A:14-2.7(b))

If a parent refuses to provide consent and the district and the parent have not agreed to other action, the district may request a due process hearing according to N.J.A.C. 6A:14-2.7(b) to obtain consent. (N.J.A.C. 6A:14-2.3(c))”

A due process hearing shall proceed in accordance with N.J.A.C. 6A:14-2.7. A final decision is rendered by the Administrative Law Judge, no later than 45 calendar days after the Office of Special Education Programs received the hearing request, unless an adjournment is granted by the Administrative Law Judge. Any party may appeal the decision of the Administrative Law Judge according to N.J.A.C. 6A:14-2.7(v).