

A Teacher's/Parent's Guide to Special Education

On June 3, 1998 , the State Board of Education adopted a new special education code, New Jersey Administrative Code Title 6A, Chapter 14, to comply with the mandates established by the Federal reauthorization of the Individuals with Disabilities Act (IDEA). The code has since been amended and the revised code was put into effect on June 5, 2000 . The regulations were revised initially to achieve the following goals:

- focus on achievement of improved student outcomes; .focus on instruction in the core curriculum content areas;
- participation in the state assessment system; .increased parental participation;
- development of a more individualized assessment system; .improved criteria for determining eligibility for special education and related services;
- non disability based labeling system;
- flexibility in programming; and .
- instructional based groupings.

The following is a summary of the major elements of the New Jersey Administrative Code 6A: 14. Copies of the complete code are available in the:

**Pennsville Public School District
Child Student Team & Special Programs
30 Church Street
Pennsville NJ 08070
856-540-6200**

THE REFERRAL PROCESS

Referrals to the Child Study Team can be made by members of the instructional staff, administrative staff, and other professional staff members of the local school district and by parents and agencies concerned with the welfare of children. Parents of preschoolers, who have concerns regarding their child's development, can refer their child to the Child Study Team. Referrals are made under the following conditions:

1. When it is determined that interventions in the general education program have not adequately addressed the educational difficulties of a student and it is believed that the student may be disabled. The staff of the general education program must maintain written documentation of the implementation and effectiveness of the interventions that have been instituted to alleviate the educational problems of the student;
2. When it can be documented that the nature of the student's educational problem is such that evaluation to determine eligibility for services is warranted without delay;
3. The parent or adult student makes a written request for an evaluation to determine eligibility for special education and related services.

Once a referral is made to the Child Study Team Office, the team must meet with the parent and teacher and determine if evaluations are warranted. If evaluations are warranted, the team, parent and teacher decide what assessments need to be conducted and by whom. A parent's written consent is required before any assessment activities can begin. Once the consent is given, there are 90 days available to conduct the evaluations and to determine eligibility and to appropriately place a student who is found to be eligible for special education and related services.

THE EVALUATION PROCESS

The evaluation process really begins the first time the team meets with the parent and teacher to review the referral. The process is the following:

1. Review existing evaluation data on the student including evaluations and information provided by the parent, current classroom based assessments and observations, and the observations of teachers and related services providers;
2. Consider the need for any health appraisal or specialized medical evaluation;
3. Identify what additional data are needed to determine if the student has a disability that meets the specific criteria for a disability under the New Jersey Administrative Code 6A: 14.

An initial evaluation' consists of a multi-disciplinary assessment in all areas of a suspected disability. It includes assessment by at least two members of the Child Study Team and other specialists in the area of disability as required or determined necessary. Each evaluation of the student must include the following:

1. Where appropriate, the use of a standardized test which must be individually administered, valid and reliable, normed on a representative population, and scored as either standard score with standard deviation or norm-referenced scores with a cutoff score;
2. Include functional assessment of academic performance and where appropriate behavior;
3. Other' components include:
 - a. one structures observation by one evaluator.. in other than a testing session;
 - b. An interview with the student's parent;
 - c. An interview with the teacher(s) referring the potentially disabled student;
 - d. A review of the student's developmental and educational history including records and interviews;
 - e. A review of interventions documented by the classroom teacher(s) and others who work with the student; ,

f. One or more informal measures which may include but not be limited to surveys and inventories, analysis of work, trial teaching, self report, criterion referenced tests.. curriculum based assessment, and informal rating scales.

THE REEVALUATION PROCESS

Within three years of the previous classification, a multi-disciplinary reevaluation must be completed to determine whether the student continues to be a student with a disability. Reevaluation can be conducted sooner if conditions warrant or if the student's parent or teacher requests the reevaluation. The IEP team is responsible for determining the nature and scope of the reevaluation. The IEP team reviews existing evaluation data and determines what tests and procedures are needed to determine the following:

1. Whether the student continues to have a disability;
2. The present levels of performance and educational needs of the student;
3. Whether the student continues to need special education and related services;
4. Whether any additions or modifications to the special education related service programs are needed to enable the student with a disability to meet annual goals set out in the IEP and to participate as appropriate, in the general education curriculum.

Prior to conducting any reevaluation of a student with a disability, the district board of education must obtain consent from the parent or adult student or demonstrate that reasonable efforts have been made to gain that consent.

THE IEP TEAM

The IEP team is comprised of the following individuals:

1. The parent;
2. At least one regular education teacher if the student is or may be participating in the regular education classroom. The regular education teacher shall be knowledgeable about the student's educational performance or the district's programs;
3. At least one special education teacher, or where appropriate, at least one special education provider. The special education teacher or special education provider shall be knowledgeable about the student's educational performance or the district's programs;
4. At least one child study team member who can interpret the instructional implications of evaluation results;
5. The case manager;
6. A representative of the district board of education who:

- a. is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
 - b. is knowledgeable about the general education curriculum
 - c. is knowledgeable about the availability of resources of the district board of education; and
 - d. May be the child study team member or other appropriate personnel including the special education administrator or principal;
7. At the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;
8. The student where appropriate.

THE CRITERIA OF ELIGIBILITY FOR SPECIAL EDUCATION AND RELATED SERVICES

When an initial evaluation is completed for a student, age 3 through 21, a meeting must be convened to determine whether the student is eligible for special education and related services. A copy of the evaluation reports and documentation of eligibility is given to the parent or the adult student. In making a determination of eligibility for special education and related services, a student should not be determined eligible if the determinant factor is due to a lack of instruction in reading or math or due to limited English proficiency. Classification is based on all assessments conducted including assessments by Child Study Team members and assessments by other specialists as specified by the following:

1. "Audiotorily impaired" corresponds to auditorily handicapped" and further corresponds to the Federal eligibility categories of deafness or hearing impairment. " Auditorily impaired" means an inability to hear within normal limits due to physical impairment or dysfunction of auditory mechanisms characterized by a or b below. An audiological evaluation by a specialist qualified in the field of audiology and a speech and language evaluation by a certified speech-language specialist are required.

a. "Deafness-" -The auditory impairment is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification and the student's educational performance is adversely affected.

b. "Hearing impairment"-An impairment in hearing, whether permanent or fluctuating which adversely affects the student's educational performance

2. "Autistic" means a pervasive developmental disability which significantly impacts verbal and nonverbal communication and social interaction that adversely affects a student's educational performance. Onset is generally evident before age three. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routine, unusual responses to sensory experiences and lack of responsiveness to others. The

term does not apply if the student's adverse educational performance is due to emotional disturbance. An assessment by a certified speech language specialist and an assessment by a physician trained in neurodevelopmental assessment are required.

3. "Cognitively Impaired" corresponds to "mentally retarded" and means a disability that is characterized by significantly below average general cognitive functioning existing concurrently with deficits in adaptive behavior, manifested during the developmental period that adversely affects a student's educational performance and is characterized by one of the following.

a. "Mild-cognitive impairment" corresponds to 'educable' and means a level of cognitive development and adaptive behavior in home, school, and community settings that are mildly below age expectations with respect to all of the following:

- 1) The quality and rate of learning;
- 2) The use of symbols for the interpretation of information and the solution of problems; and
- 3) Performance on an individually administered test of intelligence that fall,
- 4) within a range of two to three standard deviations below the mean.

b. "Moderate cognitive impairment" corresponds to "trainable" and means a level of cognitive development and adaptive behavior that is moderately below age expectations with respect to the following:

- 1) The ability to use symbols in the solution of problems of low complexity;
- 2) The ability to function socially without direct and close supervision in home, school, and community settings; and
- 3) Performance on an individually administered test of intelligence that falls three standard deviations or more below the mean.

c. "Severe cognitive impairment" corresponds to "eligible for day training" and means a level of functioning severely below age expectations whereby in a consistent basis the student is incapable of giving evidence of understanding and responding in a positive manner to simple directions expressed in the child's primary mode of communication and cannot in some manner express basic wants and needs.

4. "Communication impaired" corresponds to "communication handicapped" and means a language disorder in the areas of morphology, syntax, semantics and/ or pragmatics/ discourse which adversely affects a student's educational performance and is not due primarily to an auditory impairment. The problem shall be demonstrated through functional assessment of language in other than a testing situation and performance below 1.5 standard deviations, or the tenth percentile on at least two standardized oral language tests, where such tests are appropriate. When the area of suspected disability is language, an evaluation by a certified speech-language specialist is required. The speech-language specialist shall be considered a child study team member:

a. When it is determined that the student meets the eligibility criteria according to the definition above, but requires instruction by a speech-language specialist only, the student shall be classified as eligible for speech-language services.

b. When the area of suspected disability is a disorder of articulation, voice, or fluency, the student shall be evaluated and if eligible, classified as eligible for speech-language services.

5. "Emotionally disturbed" 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 due to:

a. An inability to learn that cannot be explained by intellectual, sensory or health factors;

b. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

c. Inappropriate types of behaviors or feelings under normal circumstances;

d. A general pervasive mood of unhappiness or depression;

e. A tendency to develop physical symptoms or fears associated with personal or school problems.

6. "Multiply disabled" corresponds to "Multiply handicapped" and means the presence of two or more disabling conditions, Eligibility for speech-language services alone shall not be one of the disabling conditions for classification based on the definition of "multiply disabled", "Multiply disabled" is characterized as follows:

a. "Multiple disabilities." means. Concomitant impairments the combination of which causes such severe educational problems that programs designed for the separate disabling conditions. will not meet the student's educational needs.

b. "Deaf/blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems. that they cannot be accommodated in special education programs solely for students with deafness or students. with blindness.

7. "Orthopedically impaired" corresponds to "orthopedically handicapped" and means a disability characterized by a severe orthopedic impairment that adversely affects a student's educational performance. The term includes malformation, malfunction, or loss of bones, muscle, or tissue. A medical assessment documenting the orthopedic condition is required.

8. "Other health impaired" corresponds to "chronically ill" and means a disability characterized by having limited strength, vitality or alertness, including a heightened alertness with respect to the educational environment, due to chronic or acute health problems, such as attention deficit disorder or attention deficit hyperactivity disorder, a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes or any other medical condition, such as Tourette Syndrome, that adversely affects a student's educational performance. A medical assessment documenting the health problem is required.

9. "Preschool disabled" corresponds to preschool handicapped and means an identified disabling condition and/or a measurable developmental impairment which occurs in children between the ages of three and five years and requires special education and related services.

10. "Social maladjustment" means a consistent inability to conform to the standards for behavior established by the school. Such behavior is seriously disruptive to the education of the student or other students and is not due to emotional disturbance as defined above.

11. "Specific learning disability" corresponds to "perceptually impaired" and means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

a. It is characterized by a severe discrepancy between the student's current achievement and intellectual ability in one or more of the following areas:

- 1) Basic reading skills;
- 2) Reading comprehension;
- 3) Oral expression;
- 4) Listening comprehension;
- 5) Mathematical computation;
- 6) Mathematical reasoning; and
- 7) Written expression.

b. The term does not apply to students who have learning problems that are primarily the result of visual, hearing, or motor disabilities, general cognitive deficits, emotional disturbance or environmental, cultural or economic disadvantage.

c. The district shall adopt procedures that utilize a statistical formula and criteria for determining severe discrepancy. Evaluation shall include assessment of current academic achievement and intellectual ability.

12. "Traumatic brain injury" corresponds to "neurologically impaired" and means an acquired injury to the brain caused by an external physical force or insult to the brain, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing, and speech.

13. "Visually impaired" corresponds to "visually handicapped" and means an impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. An assessment by a specialist qualified to determine visual disability is required. Students with visual impairments shall be reported to the Commission for the Blind and Visually Impaired.

THE INDIVIDUALIZED EDUCATION PROGRAM

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. At the beginning of each school year, the district board of education shall have in effect an IEP for every student who is receiving special education and related services from the district

When developing the IEP, the IEP team shall:

1. Consider the strengths of the student and the concerns of the parents for enhancing the education of their child;
2. Consider the results of the initial evaluation or most recent evaluation of the student;
3. 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;
4. In the case of a student with limited English proficiency, consider the language needs of the student as related to the IEP;
5. In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, and current and projected needs for instruction in Braille that such instruction is not appropriate.
6. Consider the communication needs of the student;
7. In the case of a student who is deaf or hard of hearing consider the student's language and communication needs, opportunities for direct communication with peers and professional personnel in the student's language and communication mode, academic level, and full range of opportunities for direct instruction in the student's language and communication mode;
8. Consider whether the student requires assistive technology devices and services; and
9. Beginning at age 14, consider the need for technical consultation from the Division of Vocational Rehabilitation Services, Department of Labor.

The IEP shall include, but not be limited to:

1. A statement of the student's present levels of educational performance, including, but not limited to:

How the student's disability affects the student's involvement and progress in the general curriculum or

For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities;

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

- a. Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum and

- b. Meeting each of the student's other educational needs that result from the student's disability;
3. A statement of the special education and related services and supplementary aids and services that shall be provided for the student, or a statement of the program modifications or supports that shall be provided for school personnel on behalf of the student:
 - a. To advance appropriately toward attaining the annual goals;
 - b. To be involved and progress in the general education Curriculum according to
1. Above and to participate in extracurricular and other non-academic activities and
 - c. To be educated and participate with other students with disabilities and non-disabled students;
4. An explanation of the extent, if any, to which the student shall not participate with non-disabled students in the general education class and in extracurricular and nonacademic activities;
5. A statement of any individual modifications in the administration of Statewide or district-wide assessments of student achievement needed for the student to participate in such assessment. If the IEP team determines that the student shall not participate in a particular Statewide or district-wide assessment of student achievement (or part of such an assessment) , a statement of why that assessment is not appropriate for the student and a statement of how that student shall be assessed.
6. A statement which specifies the projected date for the beginning of the services and modifications described and the anticipated frequency location, and duration of those services and modifications. For in-class resource programs, the IEP shall specify the frequency and amount of instructional time the in-class support resource teacher is present in the class;
7. A statement of the State and local graduation requirements, that the student shall be expected to meet. If a student with a disability is exempted from the local and State high school graduation requirements, the statement shall include: the statement shall include:
 - a. A rationale for the exemption based on the student's educational needs; and
 - b. A description of the alternate proficiencies. to be achieved by the student to qualify for a State endorsed diploma.
8. A statement of student's transition from all elementary program to the secondary program which shall be determined by factors including number of years in school; social, academic, and vocational development; and chronological age;
9. Beginning at age 14, and updated annually, a statement of the transition service needs of the student under the applicable parts of the student's IEP that focuses on the student's courses of study including, when appropriate, technical consultation from the Division of Vocational Rehabilitation Services, Department of Labor;
10. For students with disabilities age 16 and over, or younger if deemed appropriate, a statement of needed transition services including when appropriate, a statement of the interagency responsibilities, or any needed linkages. The transition services shall be

based on the individual student's needs, taking into account the student's preferences and interests and shall include:

- a. Instruction;
- b. Related services;
- c. Community experiences;
- d. The development of employment and other post-school adult living objectives and
- e. If appropriate, acquisition of daily living skills and functional vocational evaluation;

11. If the participants in the IEP meeting determine that transition services shall not be needed in one or more of the specified areas, a statement to that effect and the basis upon which the determination was made;

12. The person(s) responsible to serve as a liaison to post-secondary resources and make referrals to the resources as appropriate. If the student with educational disabilities does not attend the IEP meeting where transition services are discussed, the district board of education or public agency shall take other steps to ensure that the student's preferences and interests are considered.

PROGRAM OPTIONS

A full continuum of alternative placements shall be available to meet the needs of students with disabilities ages three through 21 for special education and related services. Educational program options include placement in the following:

1. Regular class with supplementary aids and services including, but not limited to; the following:

- a. Curricular or instructional modifications or specialized instructional strategies;
- b. Supplementary instruction;
- c. Assistive technology devices and services
- d. Teacher aides; and
- e. Related services.

2. Resource programs offer individual and small group instruction to students with disabilities. Resource programs may be provided in a regular class or in a pullout resource program. These programs provide support or replacement instruction as defined below:

- a. In a support resource program, the student shall meet the regular education curriculum requirements for the grade or subject being taught. Modifications to the instructional strategies: or testing procedures may be provided and, if provided shall be provided in accordance with the student's: IEP: The primary instructional responsibility for the student in a support resource program shall be the regular classroom teacher with input from the resource program teacher as specified in the student's IEP. A support resource program provided in the student's regular class shall be at the same

time and in the same activities as: the rest of the class. Support instruction can be provided in the regular class or in the Resource Center as a pullout program. These models can occur in combination.

b. In a replacement resource program, the regular education curriculum and the instructional strategies may be modified based on the student's IEP. The resource program teacher shall have primary instructional responsibility for the student in the replacement resource program. Replacement instruction can occur in the regular education classroom or the Resource Center. A student participating in an in-class replacement program shall be included in activities such as group discussion, special projects, field trips and other regular class activities as deemed appropriate in the student's IEP.

An in-class resource program may be provided up to the student's entire instructional day. At the elementary level, a pullout resource center program may be provided for up to one half of the instructional day. At the secondary level, a pullout resource program may be provided for up to the entire instructional day. In-class support and in-class replacement instruction may be provided to students with disabilities by the same teacher during the same instructional period.

3. Special class programs shall serve students who have similar educational needs in accordance with their individualized education programs. Special programs offer instruction in the core curriculum content standards unless the IEP specifies an alternative curriculum due to the nature and severity of the student's disability. The regular education and curriculum and the instructional strategies may be modified based on the student's IEP. The following are the types of special class programs.

- a. Auditory impairments
- b. Autism
- c. Behavioral disabilities
- d. Cognitive disabilities
- e. Learning and/or language disabilities
- f. Multiple disabilities
- g. Preschool disabilities
- h. Visual impairments

4. Other placement options include, but are not limited to a special services school district, A New Jersey approved school for the disabled, community rehabilitation program, and individual instruction at home or in other facilities with the prior written approval of the Department of Education through its county office.

LEAST RESTRICTIVE ENVIRONMENT

Students with disabilities shall be educated in the least restrictive environment. Each district board of education shall insure that:

1. To the maximum extent appropriate, a student with a disability is educated with children who are not disabled;

2. Special classes, separate schooling, or other removal of a student with a disability from the student's regular class occurs only when the nature or severity of the educational disability is such that education in the student's regular class with the use of appropriate supplementary aides and services cannot be achieved satisfactorily;
3. A full continuum of alternative placements is to be available to meet the needs of students with disabilities for special education and related services;
4. Placement of a student with a disability is determined at least annually;
5. Placement is based on his or her individualized education program~
6. Placement is provided in appropriate educational settings as close to home as possible;
7. When the IEP does not describe specific restrictions, the student, is educated in the school he or she would attend if not disabled; and
8. Consideration is given to:
 - a. Whether the student can be educated satisfactorily in a regular classroom with supplementary aids and services
 - b. A comparison of the benefits provided in a regular class and the benefits provided in a special education class and
 - c. The potentially beneficial or harmful effects which a placement may have on the student with disabilities or the other students in the class.

Examples of supplementary aids and services include, but are not limited to, modifications to the regular curriculum, assistance of a one-to-one aide, special education training for the regular teacher, use of computer-assisted devices, and provision of note takers.

DISCIPLINE

Four basic theme run throughout Administrative Code 6A: 14 concerning discipline and they are:

1. All children, including children with disabilities, deserve safe, well-disciplined schools and orderly learning environments;
2. Teachers and school administrators should have tools they need to assist them in preventing misconduct and discipline problems and to address these problems if they arise;
3. There must be a balanced approach to the issue of discipline of children with disabilities that reflects the need for orderly and safe schools and the need to protect the right of children with disabilities to a free and appropriate education (F APE);
4. Appropriate developed IEPs with well-developed behavior intervention strategies decrease school discipline problems.

SUSPENSIONS

Suspensions Up to Ten Days:

With suspensions less than ten days (consecutive or cumulative), the district is not required to provide services. At the time of the suspension, the school principal must provide the parents with written notification and a description of the action and why it was taken. A copy of the notice must be forwarded to the case manager .

Suspensions that Exceed Ten Days:

There is a process that must be followed anytime a student is considered for a suspension that exceeds ten days. The process is as follows:

1. The parent must be notified of the decision not later than the date on which the decision to take action is made and must be provided all procedural safeguards;
2. The district must do the following:
 - a. Conduct a functional behavioral assessment;
 - b. Develop a behavioral intervention plan;
 - c. Conduct a manifestation determination.

If there is no relationship between the behavior and the disability, the student may be suspended for the remaining days, but **with** FAPE, including access to the general education curriculum.

If there is a relationship, the student may not be suspended but the student's individualized education program may be modified. Either way, the student must receive a free, appropriate, and public education on the eleventh day.

In case of a dangerous weapon or drugs, the principal can place a student in an interim alternative educational setting for a maximum of 45 calendar days. The IEP team determines the setting and the student returns to the regular placement on the 46th day.

If the district is concerned that a student poses a substantial threat to himself/herself or to others, the district must request placement in an alternative interim educational setting by an Administrative Law judge.