

## PRESCHOOL SPECIAL EDUCATION REGULATION

### I. *The Committee on Preschool Special Education (CPSE)*

The Board shall appoint a Committee on Preschool Special Education (CPSE) composed of:

1. an appropriate professional employed by the school district who shall serve as the chairperson of the committee;
2. a parent or guardian of a child with a disability who resides in the district and is enrolled in preschool or elementary level education, provided the parent is not employed by the district;
3. the child's teacher;
4. a professional who participated in the evaluation of the particular child; and
5. a representative of Department of Health Early Intervention Program.

The chief executive officer of the county in which the district is located also shall appoint an appropriately licensed or certified professional to the committee to represent the county on the CPSE. Attendance of the appointee shall not, however, be required for a quorum.

The Board directs the Superintendent of Schools to ensure that all members of the CPSE are appropriately trained for their responsibilities on that committee.

### II. *Identifying and Evaluating Preschool Children with Disabilities*

The district shall conduct a census in accordance with the Education Law to locate and identify all children with disabilities who reside in the district and establish a register of such children who are eligible to attend a Preschool program in accordance with Section 4410 of the Education Law. Such register shall be maintained and revised annually by the CPSE. Such census data shall be compiled and maintained in accordance with Section 200.2(a) of the Regulations of the Commissioner.

Age eligibility for pre-school special education will be determined in the following manner: if the child turns three between January 1 and June 30 of a calendar year, the child will be eligible for special education as of January 2 of that year; if the child turns three on or after July 1 during that year, the child will be eligible as of July 1.

Upon the receipt of written notification that a preschool child is suspected of having a disability, the chairperson of the CPSE shall notify the child's parent(s) or guardian(s) that a referral has been made and request consent for the child's evaluation. Such notification must include, among other things, the following information: the right to consent or withhold consent to an initial

evaluation or placement; the right to a hearing; procedures for appeal; the acknowledgment that if consent is refused, there will be no evaluation and the student shall remain in his/her current placement, or receive admittance to the requested school pending the outcome of a hearing; the availability of free low-cost legal aid and reimbursement of reasonable attorney's fees if the parent(s) or guardian(s) win their hearing. The notification shall be in the dominant language or dominant mode of communication of the parent(s).

The parent(s) or guardian(s) shall be provided with a list of approved evaluators within the county and adjoining counties. This evaluation shall include a physical examination, an individual psychological examination, a social history and other suitable examinations and evaluations as may be necessary to ascertain the physical, mental and emotional factors which contribute to the suspected disability. Upon the receipt of the parent's(s') or guardian's(s') consent to the evaluation, the evaluation will be arranged and conducted. The approved evaluator shall provide a report of the results of the evaluation, which shall include a detailed statement of the child's individualized educational needs, and if the child is determined to have a disability, a recommendation as to the frequency and duration of services and the manner in which the child can be provided with instruction in the least restrictive environment.

The evaluator shall submit his or her recommendations to each member of the CPSE and to a person designated by the municipality in which the preschool child resides. Upon request of the parent, the evaluator will provide the parent(s) or guardian(s) with a copy of the statement and recommendation of the evaluator. If the parent(s) or guardian(s) disagrees with the evaluation, he or she may obtain an independent evaluation at public expense.

### III. *Determining the Appropriate Preschool Program*

The CPSE shall consider the evaluation and its recommendation to the Board. Prior to the committee meeting, the CPSE shall provide the parent with a copy of the summary portion of the evaluation, including the recommendations of the evaluator. Upon the parent's(s') or guardian's(s') request, the CPSE shall provide copies of all written documentation to be considered by the committee in the development of the preschool child's individualized educational program (IEP).

The committee must review all relevant information before making its decision. The decision must indicate the rationale behind its determination.

Should the CPSE find that a child has a disability, it shall use the recommendation of the evaluator to develop an IEP for the preschool child with the participation of the child's teacher. The CPSE shall recommend appropriate services and programs based on the needs of the child as identified in the IEP. Such programs and services shall be selected from the list of approved preschool programs within the county and adjoining counties or the municipality's list of

itinerant service providers. The CPSE shall notify the parent(s) or guardian(s) of the child and the Board in writing of its recommendation.

The Board shall select the appropriate services and/or program after consideration of the recommendation of the CPSE and any expressed preference of the parent(s) or guardian(s). The reason for its determinations shall be set forth in writing and furnished to the preschool child's parent(s) or guardian(s) and the municipality in which the preschool child resides. Should the Board's determination differ from the recommendation of the CPSE or the parent, an explanation for not following either recommendation must be included in writing. The appropriate municipality, the program selected to provide services, the parent, and Commissioner of Education shall be given written notice of the Board determination.

Services of a program shall commence with the July, September or January starting date of the approved program. Should the recommendation of the CPSE be given thirty days prior to, or after, such starting date for the program selected for the child, services shall be provided no later than 30 days after the recommendation of the CPSE. Within 30 days of the child's entry into the approved program, the IEP's goals and objectives shall be developed in a meeting of the child's teacher and parent(s) or guardian(s). A representative of the district may attend such meeting. The CPSE shall review at least annually the status of each preschool child with a disability.

#### IV. *Due Process Provisions*

Should the parent(s) or guardian(s) of a preschool child disagree with the determination of the Board or if the CPSE or the Board fails to make or effectuate such a recommendation within the time periods set by the Commissioner, a request for an impartial hearing may be made pursuant to section 4404 of the Education Law.

During the pendency of an appeal, unless the parent(s) or guardian(s) and Board otherwise agree, the child will remain in the current educational placement at the time the Board made the decision which is the subject of the appeal. If the child has not been previously served, he or she may enter the Board recommended placement if the parent(s) or guardian(s) consents. Until his/her third birthday, a preschool child who received services from an agency after having been placed by a Family Court, may continue to receive services at the agency. The child may remain in such placement until August 31 of that calendar year, and thereafter must be referred to the CPSE.

V. *District Plans for Preschool Special Education Program*

The district shall maintain a plan for the provision of services and programs offered to preschool children with disabilities. The plan shall include:

1. a description of the nature and scope of the programs and services currently available to preschool children residing in the district;
2. identification of the number and age span of preschool children to be served by type of disability and recommended setting;
3. a description of the policies and practices of the Board to ensure the allocation of appropriate space within the district for special education programs that meet the needs of preschool students with disabilities. Although each district will not have to ensure the allocation of such space, the space needs of these children must be considered in the plan;
4. a description of the policies and practices that ensure that appropriate space will be available to meet the needs of preschool children with disabilities who attend special education programs provided by Boards of Cooperative Educational Services; and
5. the program's estimated budget.

Such plan, with personally identifiable information deleted, shall be filed and made available for public inspection and review by the Commissioner of Education.

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