

SPECIAL EDUCATION

In compliance with State Department of Education interpretation of the administrative code on special education, the board adopts the following policies on providing educational and related services to students identified as having educationally disabling conditions as defined in federal and state law.

- A. Exemption of educationally disabled students from the high school graduation requirements according to N.J.A.C. 6A:14-4.11

A disabled student must meet all state and local high school graduation requirements in order to receive a state-endorsed high school diploma unless exempted in his/her IEP. When a student has been exempted from any graduation requirement, his/her IEP shall address alternate requirements to be met. By the year specified in code, the board shall ensure that all students with disabilities participate in statewide assessments with appropriate accommodations or modifications, as determined by the student's IEP. If the nature of the student's disability is so severe that the student is not receiving instruction in any of the knowledge and skills measured by the statewide assessment and the student cannot complete any of the questions on the assessment in a subject area with or without accommodations, the student shall participate in a locally determined assessment of student progress.

By June 30 of a disabled student's last year in the elementary program, the student's case manager, parent/guardian and teacher(s) shall meet to review the instructional guide and basic plan of the student's IEP in view of the transition to the secondary program. Input from appropriate staff from the secondary school shall be part of the review.

The basic plan of the IEP for the student entering the secondary program will address all the elements required in the administrative code, including specifically addressing graduation requirements. Required reviews of the IEP shall continue to address graduation requirements.

A disabled student who has not been exempted from the proficiencies or has performed below the state minimum level of student proficiency on one or more areas of the state-mandated high school proficiency test may participate in the alternative high school assessment (AHSA).

Educationally disabled students meeting the standards for graduation according to N.J.A.C. 6A:14-4.11 shall have the opportunity to participate in graduation exercises and related activities on a nondiscriminatory basis.

- B. Prevention of needless public labeling of educationally disabled students

The board directs that the names and other personally identifiable data concerning educationally disabled children shall be kept confidential and shall not be included in the public acts and public records of this district. Such names and data shall be reduced to code for inclusion in the public record. A special confidential file shall be maintained listing the names of educationally disabled students on whose behalf the board of education must take public action. Motions concerning disabled students made at public meetings shall be anonymous and referred to this confidential file. This file shall be maintained in accordance with N.J.A.C. 6A:32-7.1.

Further, the board, administrators, faculty and other personnel shall avoid unnecessary and needless public labeling of such students. This shall include the avoidance of public address announcements so designating students, any open identification of classrooms with signs so designating, or any item of open or general circulation, such as photographs, audio/videotapes, etc., that so designates an individual

SPECIAL EDUCATION (continued)

student or class. Student records shall be maintained in accordance with N.J.A.C. 6A:32-7.4.

- C. Compilation, maintenance, access to and confidentiality of student records according to N.J.A.C. 6A:32-7.4 through –6.6.

To ensure proper accessibility and confidentiality, the records of educationally disabled students shall be gathered, updated, maintained, stored, transferred, made accessible and finally disposed of in accordance with the district policy 5125 on student records in general. To assure the security of special education records:

1. Provision shall be made for access and security of computer-stored records of educationally disabled students;
2. Clerical and secretarial tasks related to such records shall be performed only under the supervision of appropriately certified staff.

As with all student records, access shall be guaranteed to persons authorized according to N.J.A.C. 6A:32-7.5 within 10 days of the request, but prior to any review or hearing conducted in accordance with state board of education regulations.

For the district's general policy and regulation on student records see 5125, which deals with all requirements common to disabled and general student records including enumeration and description of records, provisions for access, notice to parents/guardians of their rights in regard to the child's records, etc. NOTE: YOUR GENERAL POLICY ON STUDENT RECORDS SHOULD BE INCLUDED IN THE MATERIAL YOU SUBMIT TO THE COUNTY OFFICE.

- D. Identification, location and evaluation of potentially educationally disabled students, according to N.J.A.C 6A:14-3.3

The superintendent shall prepare written procedures for identifying those students ages three through 21, including students attending nonpublic schools, who reside within the district and may be educationally disabled, who are not receiving special education and/or related services as required. Procedures shall include provision for the referral of students who may be experiencing physical, sensory, emotional, communication, cognitive or social difficulties. In order to ensure program placement by a disabled child's third birthday, a written request for initial evaluation shall be forwarded to the district at least 120 days prior to the preschooler attaining age three.

Activities to undertaken to locate nonpublic school students with disabilities shall be comparable to activities undertaken to locate public school students with disabilities. In addition, the board shall consult with appropriate representatives of nonpublic students on how to carry out these activities.

The board shall ensure that all preschool students with disabilities shall have their IEPs implemented no later than their third birthdays. To provide a smooth transition between a child's preschool program and his/her school age program (public or private), particular attention shall be paid to articulation between those programs.

These procedures and arrangements shall be adopted by the board after review and possible revision. The procedures shall include:

1. Criteria by which to identify the potentially disabled;
2. Utilizing strategies identified through intervention and referral services (N.J.A.C. 6A:16-8);
3. Criteria for staff referral for evaluation of students;
4. Evaluation criteria for the determination of eligibility for special education and related services; and
5. Require the participation of staff, parents/guardians and appropriate agencies.

SPECIAL EDUCATION (continued)Evaluation and Determination of Eligibility

The evaluation process to determine a student's eligibility for educational and related services beyond those available within the regular public school program shall be conducted in strict compliance with the provisions of N.J.A.C. 6A:14-2.3, 2.5, 3.4 and 3.5 dealing with:

1. Parental notice, notification, consent and involvement, including determination of the parents/guardians' dominant language and necessary accommodations if the language is other than English or if the parents/guardians are deaf;
2. An initial evaluation that consists of a multi-disciplinary assessment in all areas of suspected disability and a written report of the results of each assessment;
3. Determination that a student is eligible for special education and related services when he/she has been identified as having one or more of the fourteen categories of disability described in the administrative code, and the disability adversely affects the student's educational performance.

The superintendent shall oversee development of detailed procedures to govern the evaluation process, and shall implement them after they have been reviewed and adopted by the board.

The board shall ensure that a variety of assessment tools and strategies shall be applied to gather information to develop and monitor the IEP, including cooperation and input from the parents/guardians. Relevant information shall also be related to enabling the student to be involved in and progress in the general education curriculum or, for preschool children with disabilities to participate in appropriate activities.

E. Provision of full educational opportunity to educationally disabled students

The board of education is responsible for providing a free and appropriate education for all children resident in the district. All reasonable efforts will be made to resolve an enrolled child's learning and adjustment difficulties prior to his/her referral to the child study team for screening and/or evaluation. When a student is found eligible for special education and related services and the board of education cannot provide required instruction and related services from its own resources and facilities, the board will seek appropriate placement outside the district, and will assume such costs of that placement as are required by law.

The goal of the board's special education program is to provide full educational opportunity to all educationally disabled resident students ages three through 21, as those terms are defined in federal and state law. The board will make available to parents/guardians of educationally disabled children below the age of three information regarding services available through other state, county and local agencies.

The superintendent shall ensure that the district's special education programs comply with the law in every respect, including fiscal regulations and reports.

The chief school administrator shall also ensure that the district plan for special education is in compliance with administrative code and the approved state plan for special education, according to N.J.A.C. 6A:14-4.1. This plan shall consist of policies, procedures, assurances, a comprehensive system of personnel development, data collection and an application that describes the use of IDEA Part B funds. The superintendent shall ensure that the plan is implemented in this district and shall supervise its operation so that it will accomplish its stated goals and objectives.

F. Participation of and consultation with the parents of educationally disabled students toward the goal of providing full educational opportunity to all educationally disabled students ages three through 21

In order to achieve the district's goal of providing full educational opportunity to all educationally disabled students in accordance with the administrative code, parent/guardian participation shall be sought in every successive stage of the special education decisional process, pursuant to N.J.A.C. 6A:14-2.3 and

SPECIAL EDUCATION (continued)

## 2.4.

All notifications shall be made and all necessary conferences conducted in the language used for communication by the parent/guardian and the student unless it is not feasible to do so, in which case the provisions of administrative code shall be followed.

Written notice to parents/guardians and/or adult students shall be provided as follows:

1. The board shall provide written notice no later than 15 calendar days after making a determination;
2. The board shall provide written notice at least 15 calendar days prior to the implementation of a proposed action so that the parents/guardians and/or adult student may consider the proposal.

The superintendent shall develop and present to the board for review and adoption procedures for:

1. Giving notice to parents/guardians when an initial request is being made for consent to evaluate or when a proposal has been made to initiate or change a classification, evaluation or educational placement of the student, or the provision of a free, appropriate education. For each instance, all required information and documentation shall be supplied to the parents/guardians within the timelines set by the administrative code. Particular care must be taken to inform parents/guardians of their right to appeal and their rights in regard to low-cost legal counsel and fees;
2. Seeking consent of parents/guardians to the actions in 1, when such consent is required;
3. Seeking parent/guardian participation in conferences and determinations as specified in 1, and in evaluation of the success of the educational plan for their child. When necessary, conference schedules shall be altered to accommodate working parents/guardians;
4. Mediation when disputes arise during any stage of the special education process which cannot be settled between the original parties.
5. Particularly, parental consent shall be obtained prior to implementation of the initial IEP resulting from evaluation; prior to reevaluation except in the circumstances outlined in code; and prior to the release of student records according to N.J.A.C. 6A:32-7.

Procedures set out in the administrative code shall be followed when parent/guardian cooperation and/or participation cannot be obtained. When necessary, a surrogate parent shall be appointed to ensure the protection of a student's rights when the parents/guardians cannot be identified or located or the child is a ward of the State of New Jersey. The district shall select and train such surrogate parents in compliance with the administrative code.

No more than 90 calendar days after parental consent has been received shall be allowed for the evaluation, determination of eligibility and, if the student is eligible, the development and implementation of the IEP.

- G. Provision of special services to enable educationally disabled students to participate in regular educational programs to the maximum extent appropriate

The board of education will provide the kind and quality of those special education-related services prescribed in the IEP to enable educationally disabled students to participate in regular educational programs to the maximum extent appropriate. Such education-related services shall include transportation, ensuring that hearing aids worn by deaf and/or hard of hearing children in school are functioning properly, etc.

When instruction in health, industrial arts, fine arts, music, home economics, and other education programs is provided to groups consisting solely of students with disabilities, the size of the groups and age range shall conform to the requirements for special class programs described in the administrative code.

When students with disabilities participate in physical education, intramural and interscholastic sports, non-academic and extracurricular activities in groups consisting solely of students with disabilities, the

SPECIAL EDUCATION (continued)

age range and group size shall be based on the nature of the activity, needs of the students participating in the activity and the level of supervision required.

The evaluation process to determine a student's eligibility for educational and related services beyond those available within the regular public school program shall be conducted in strict compliance with the provisions of the administrative code.

H. Determination of eligibility according to N.J.A.C. 6A:14-2.3(k)1 and 3.5 through -3.6

Eligibility for special education and related services shall be determined collaboratively by the parents/guardians; a teacher who is knowledgeable about the student's educational performance or district's programs; the student, where appropriate; at least one child study team member who participated in the evaluation; the case manager; other appropriate individuals at the discretion of the parent or district; and for an initial eligibility meeting, certified school personnel referring the student as potentially disabled, or the school principal or designee if they choose to participate.

A student shall be determined eligible and classified for special education and related services when it is determined that the student has one or more of the disabilities defined in the administrative code. A student shall be determined eligible for speech-language services when he/she exhibits a speech or language disorder as outlined in the administrative code.

I. The individualized education program for each educationally disabled student shall be developed in accordance with the provisions of the administrative code, at N.J.A.C. 6A:14-2.3(k) and N.J.A.C. 6A:14-3.7.

The board shall ensure that an IEP is in effect for every student in the district who is receiving special education and related services.

A written individualized education program shall be developed and implemented for each classified student and, in accordance with New Jersey law, a review shall be conducted by the appropriate staff members annually or more often, if necessary, to evaluate the disabled student's progress and to revise the individualized education program.

Meetings shall be conducted to determine eligibility and to develop, review and revise a student's individualized education program. Such meetings shall be scheduled at a mutually agreed upon time and place, and notice of the meetings shall indicate the purpose, time, location and participants. If the parents/guardians cannot attend the meetings, the superintendent/designee shall attempt to ensure parental participation, including the use of individual or conference telephone calls. Documentation shall be maintained of all attempts to secure parent/guardian participation.

Parents/guardians shall receive a copy of the student's IEP and of any revisions made to it.

All communication with parents/guardians, including written notice, notifications and required meetings, shall be conducted in the language used for communication by the parent/guardian and student unless it is not feasible to do so. This shall include providing foreign language interpreters or translators and sign language interpreters for the deaf at no cost to the parents.

The IEP shall be developed and monitored with the cooperation and input of parents/guardians. In addition to educational programming, the IEP shall provide for necessary disciplinary action and specify graduation requirements when appropriate. Any accommodations and/or modifications for the administration of statewide assessments shall be specified in the IEP.

1. No more than 90 calendar days after parental consent has been received shall be allowed for the evaluation, determination of eligibility and, if the student is eligible, the development and implementation of the IEP. The IEP shall be implemented as soon as possible following the IEP

SPECIAL EDUCATION (continued)

meeting.

2. The board of education will provide the kind and quality of those special education-related services prescribed in the IEP to enable educationally disabled students to participate in regular educational programs to the maximum extent appropriate. Such education-related services shall include transportation, ensuring that hearing aids worn by deaf and/or hard of hearing children in school are functioning properly, etc.

- J. Protection of students rights in regard to evaluation and reevaluation procedures according to N.J.A.C. 6A:14-3.4 and 3.8

Procedures shall provide all due process protection for the rights of the student and his/her parents/guardians whether the student is already enrolled in the schools or has been located through the process for identification in the section D of this policy.

In order to achieve the district's goal of providing full educational opportunity to all educationally disabled students in accordance with the administrative code, parent/guardian participation shall be sought in every successive stage of the special education decisional process. All notifications shall be made and all necessary conferences conducted in the language used for communication by the parent/guardian and the student unless it is not feasible to do so, in which case the provisions of administrative code shall be followed. The superintendent shall develop and present to the board for review and adoption procedures for:

1. Giving notice to parents/guardians and adult students in accordance with N.J.A.C. 6A:14-2.3 when an initial request is being made for consent to evaluate or when a proposal has been made to initiate or change a classification, evaluation or educational placement of the student, or the provision of a free, appropriate education. For each instance, all required information and documentation shall be supplied to the parents/guardians within the timelines set by the administrative code. Particular care must be taken to inform parents/guardians and adult students of their right to review all educational records with respect to the identification, evaluation and educational placement of the student; to appeal these by requesting a due process hearing; and their rights in regard to free and low cost legal services and legal fees;
2. An independent evaluation at the request of the parent/guardian or adult student in accordance with N.J.A.C. 6A:14-2.5(c). Such independent evaluation shall be at no cost to the parent/guardian if it is conducted in compliance with administrative code, unless the district board of education initiates a due process hearing to show that its evaluation is appropriate and a final determination to that effect is made following the hearing. The IEP team shall consider any independent evaluation submitted to it when making decisions regarding special education and/or related services;
3. Mediation when disputes arise during any stage of the special education process which cannot be settled between the original parties. A due process hearing may be initiated by the board of education, a parent/guardian or adult student;
4. Ensuring what all evaluation procedures, including but not limited to observations, tests and interviews used to determine eligibility and placement of disabled students, shall comply with the requirements of N.J.A.C. 6A:14-3.4, 3.5 and 3.7.

- K. Placement of educationally disabled students in the least restrictive environment according to N.J.A.C. 6A:14-4.2

Educational placement decisions made for each disabled student shall always be, insofar as possible, in the least restrictive environment commensurate with the student's educational needs. This means that to the maximum extent appropriate, educationally disabled students shall be educated with children who are not educationally disabled. These decisions should be designed to produce a positive effect on the student and to ensure the quality of services which he/she requires.

The superintendent shall encourage positive attitudes toward the educationally disabled in all district students and personnel.

SPECIAL EDUCATION (continued)

Special classes, separate schooling or other removal of educationally disabled students from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In order to ensure a continuum of alternative placements, when the board cannot provide required instruction and related services from its own resources and facilities, it will seek appropriate placement outside the district and will assume such costs of that placement as are required by law.

Placement of a disabled student in the least restrictive environment shall be determined annually and, for a student in a separate setting, activities necessary to transition the student to a less restrictive placement are considered at least annually.

Placement is based on the student's individualized education program. Placement shall be provided in appropriate educational settings as close to home as possible. When the IEP does not describe specific restrictions, the student shall be educated in the school he/she would attend if not disabled.

In determining the least restrictive setting consideration shall be given to whether the student can be satisfactorily educated in the regular classroom with supplemental aids and services; a comparison of the benefits provided in a regular class and the benefits provided in a special education class; and the potential beneficial or harmful effects which a placement may have on the student with disabilities or the other students in the class.

A student with a disability is not removed from the age-appropriate general education classroom solely based on needed modifications to the general education curriculum.

Placement in a program option shall be based on the individual needs of the student.

When determining the restrictiveness of a program option, the determination is based solely on the amount of time a student with disabilities is educated outside the general education setting.

The board shall provide or arrange for the provision nonacademic and extracurricular services and activities in the manner necessary to afford students with disabilities an equal opportunity for participation in those services and activities; and that each student with a disability participates with nondisabled students to the maximum extent possible.

- L. Establishment and implementation of procedural safeguards according to N.J.A.C. 6A:14-2.3 through -2.4 and N.J.A.C. 1:6A

The board of education directs the superintendent to establish and implement the required procedural safeguards.

Procedural safeguards shall include:

1. Giving notice to parents/guardians per N.J.A.C. 6A:14-2.3 when an initial request is being made for consent prior to conducting any assessment as part of the initial evaluation; prior to the implementation of the initial IEP; prior to conducting any assessment as a part of a reevaluation; prior to the release of student records; each time the board seeks access to private insurance; when a member of the IEP team is excused from participating in a meeting; when the IEP is amended; and when a parent or the board agree to waive a reevaluation. For each instance, all required information and documentation shall be supplied to the parents/guardians within the timelines set by the administrative code. Particular care must be taken to inform parents/guardians of their right to appeal and their rights in regard to legal fees;
2. Seeking consent of parents/guardians to the actions in 1, when such consent is required;

SPECIAL EDUCATION (continued)

3. Seeking parent/guardian participation in conferences and determinations as specified in 1, and in evaluation of the success of the educational plan for their child. When necessary, conference schedules shall be altered to accommodate working parents/guardians;
4. Mediation when disputes arise during any stage of the special education process which cannot be settled between the original parties.

The superintendent shall ensure that the district's special education programs comply with the law in every respect, including fiscal regulations and reports.

These procedures shall provide all due process protection for the rights of the student and his/her parents/guardians. Procedures shall be conducted in strict compliance with the provisions of the administrative code dealing with parental notification, consent and involvement, including determination of the parents/guardians' dominant language and necessary accommodations if the language is other than English or if the parents/guardians are deaf.

To implement achievement of the board's goal for provision of special education, the superintendent shall oversee development of a written plan for special education conforming to the state plan for the educationally disabled. The plan shall consist of policies, procedures, assurances; a comprehensive system of personnel development; data collection and an application that describes the use of IDEA Part B funds.

- M. Complying with other aspects of the district program for special education and/or requirements of N.J.A.C. 6A:14

Written Plan

To implement achievement of the board's goal for provision of special education, the superintendent shall oversee development of a written plan for special education conforming to the state plan for the educationally disabled. After the plan has been approved by the board of education and the Executive County Superintendent, the superintendent shall implement it in this district and supervise its operation so that it will accomplish its stated goals and objectives. The plan, any alterations to it, and an evaluation of its effectiveness will be shared annually with the community.

Discipline

In general, educationally disabled students are subject to the same disciplinary constraints and sanctions as nondisabled students. However, before disciplinary action is taken against an educationally disabled student, consideration must be given to whether the behavior is caused by the disabling condition, whether the program that is being provided meets the student's needs, whether a component of the student's IEP covers the behavior, or whether the student is an immediate danger to himself/herself or others.

A disabled student may be removed for disciplinary reasons from his/her current educational placement to an interim alternative educational setting, another setting, or a suspension without the provision of educational services for up to 10 consecutive or cumulative school days in a school year. Such suspensions are subject to the same district board of education procedures as nondisabled students. However, at the time of removal, the principal shall forward written notification and a description of the reasons for such action to the case manager.

Procedures for imposing and implementing disciplinary sanctions on educationally disabled students, including removal to an interim alternative educational setting, suspension for more than 10 school days in a school year, or expulsion, shall be in strict compliance with the provisions of state and federal law and the administrative code. (See N.J.A.C. 6A:14-2.8, 3.7 and Appendix A)

SPECIAL EDUCATION (continued)Early Intervention

The superintendent or designee shall gather and make available to parents/guardians of disabled children below the age of three information regarding ameliorative services and programs provided by other state, county and local agencies. The procedures for such dissemination shall be reviewed and adopted by the board.

Preschool Disabled Program

The superintendent shall develop and propose for board adoption programs and related services for students ages three through five who have been identified and classified as preschool disabled. Such programs and services shall be in strict accordance with New Jersey administrative code.

Placement in Nonpublic Schools

The board shall provide a genuine opportunity for the equitable participation of students with disabilities who have been enrolled in nonpublic schools by their parents/guardians, in accordance with federal law and regulations. All special education programs and services shall be provided with the consent of parents/guardians.

Students shall receive programs and services as specified in N.J.A.C. 6A:14-6.1.

Limited English Proficient

Students with limited English proficiency may have educationally disabling conditions that must be addressed in order to provide them the full educational opportunity that is the goal of the district for every child. Evaluation procedures shall be selected so that the student's cultural background and language abilities are taken into consideration unless it is clearly unfeasible to do so; and shall accurately reflect the student's ability rather than the impairment. All actions under Parent/Guardian Notification, Consent and Participation are to be conducted in the parents/guardians' dominant language, unless that is clearly impossible. In that case, care shall be taken that the facts and procedures are made intelligible to the parents/guardians.

Cooperation with Other Agencies

The superintendent shall investigate the possibilities of working with organizations and agencies providing services for the disabled, and shall present feasible programs and relationships to the board for consideration.

Evaluation of Program

At least annually, the board shall review in a public meeting evidence of progress toward achievement of the special education plan as a whole, the success of identification procedures specifically, and the effectiveness of implementation of IEPs.

Eligibility for State and Federal Funds

The superintendent shall ensure that all requirements for receiving, using and accounting for state and federal funds shall be fulfilled in an accurate and timely manner.

Procurement, control, use and disposition of equipment and supplies purchased with state/federal funds shall be in full compliance with law.

Access

In addition to educational programs, the board directs that the superintendent take into consideration

SPECIAL EDUCATION (continued)

physical access to district facilities for disabled students, staff and the community in determining location of programs or planning new facilities per state and federal law.

Program Implementation

The board of education shall ensure that a special education parent advisory group is in place in the district to provide input to the district on issues concerning students with disabilities (N.J.A.C. 6A:14-1.2h).

Adopted: March 18, 2009  
 NJSBA Review/Update: June 2014  
 Readopted:

Key Words

Special Education, Disabled, Graduation Requirements, Records, Student Records, Student Records, Special Education Student Records, Parent Advisory Group

**ADDENDUM: TO 6171.4 SPECIAL EDUCATION POLICY**

**NEW JERSEY DEPARTMENT OF EDUCATION  
 OFFICE OF SPECIAL EDUCATION PROGRAMS**

**BOARD OF EDUCATION POLICIES AND PROCEDURES  
 FOR ELIGIBILITY UNDER PART B OF THE IDEA**

**PART I - POLICIES**

**COUNTY CODE:** 0475 **COUNTY NAME:** Burlington

**DISTRICT CODE:** 05 **DISTRICT NAME:** Bordentown Regional

In accordance with Part B of the IDEA and N.J.A.C. 6A:14-1.1, N.J.A.C. 6A:14-1.2(b) and (c), the district board of education shall adopt and assure compliance with the following policies:

**Policy #1:** All students with disabilities, who are in need of special education and related services, including students with disabilities attending nonpublic schools, regardless of the severity of their disabilities, are located, identified and evaluated according to N.J.A.C. 6A:14-3.3.

**Policy #2:** Homeless students are located, identified and evaluated according to N.J.A.C. 6A:14-3.3, and are provided special education and related services in accordance with the IDEA, including the appointment of a surrogate parent for unaccompanied homeless youths as defined in 42 U.S.C. §§11431 et seq.

**Policy #3:** Students with disabilities are evaluated according to N.J.A.C. 6A:14-2.5 and 3.4.

**Policy #4:** An individualized education program is developed, reviewed, and as appropriate, revised according to N.J.A.C. 6A:14-3.6 and 3.7.

**Policy #5:** To the maximum extent appropriate, students with disabilities are educated in the least restrictive environment according to N.J.A.C. 6A:14-4.2.

**Policy #6:** Students with disabilities are included in statewide and districtwide assessment programs, with appropriate accommodations, where necessary according to N.J.A.C. 6A:14- 4.10. All students with disabilities will participate in statewide assessments or the applicable Alternate Proficiency Assessment, in

SPECIAL EDUCATION (continued)

grades 3, 4, 5, 6, 7, 8 and 11 in accordance with their assigned grade level.

**Policy #7:** Students with disabilities are afforded the procedural safeguards required by N.J.A.C. 6A:14-2.1 et seq., including appointment of a surrogate parent, when appropriate.

**Policy #8:** A free appropriate public education is available to all students with disabilities between the ages of three and 21, including students with disabilities who have been suspended or expelled from school.

1. 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 (IEP) is in effect for the student by that date;
2. If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP will begin;
3. A free, appropriate public education is available to any student with a disability who is eligible for special education and related services, even though the student is advancing from grade to grade;
4. 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; and
5. The services and placement needed by each student with a disability to receive a free, appropriate public education are provided in appropriate educational settings as close to the student's home as possible, and, when the IEP does not describe specific restrictions, the student is educated in the school he or she would attend if not a student with a disability.

**Policy #9:** Children with disabilities participating in early intervention programs assisted under IDEA Part C who will participate in preschool programs under this chapter will experience a smooth transition and have an individualized education program developed and implemented according to N.J.A.C. 6A:14-3.3(e) and N.J.A.C. 6A:14-3.7.

**Policy #10:** Full educational opportunity to all students with disabilities is provided.

**Policy #11:** The compilation, maintenance, access to and confidentiality of student records are in accordance with N.J.A.C. 6A:32-7.

**Policy #12:** Provision is made for the participation of students with disabilities who are placed by their parents in nonpublic schools according to N.J.A.C. 6A:14-6.1 and 6.2.

**Policy #13:** Students with disabilities who are placed in private schools by the district board of education, are provided special education and related services at no cost to their parents according to N.J.A.C. 6A:14-1.1(d) and N.J.A.C. 6A:14-7.5(b)3.

**Policy #14:** All personnel serving students with disabilities are highly qualified and appropriately certified and licensed, where a license is required, in accordance with State and Federal law.

**Policy #15:** The in-service training needs for professional and paraprofessional staff who provide special education, general education or related services are identified and that appropriate in-service training is provided. The district board of education shall maintain information to demonstrate its efforts to:

1. Prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities;
2. Enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of students with disabilities that impedes the learning of students with disabilities and others;

SPECIAL EDUCATION (continued)

3. Acquire and disseminate to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources and how the district will, if appropriate, adopt promising practices, materials and technology;
4. Insure that the in-service training is integrated to the maximum extent possible with other professional development activities; and
5. Provide for joint training activities of parents and special education, related services and general education personnel.

**Policy #16:** Instructional materials will be provided to blind or print-disabled students in a timely manner.

**Policy #17:** For students with disabilities who are potentially eligible to receive services from the Division of Developmental Disabilities in the Department of Human Services, the district will provide, pursuant to the Uniform Application Act, N.J.S.A. 30:4-25.10 et seq., the necessary materials to the parent to apply for such services.

**Policy #18:** When the school district utilizes electronic mail, parents are informed as to whether they may use electronic mail to submit requests to school officials regarding referral, identification, evaluation, classification, and the provision of a free, appropriate public education. If this is permitted, parents shall be informed of the procedures to access the electronic mail system and that they may not utilize electronic mail to provide written consent when the district provides written notice and seeks parental consent as required by N.J.A.C. 6A:14.

**Policy #19:** The school district will provide teacher aides and the appropriate general or special education teaching staff time for consultation on a regular basis as specified in each student's IEP.

## **PART II – PROCEDURES**

In accordance with Part B of the IDEA and N.J.A.C. 6A:14-1.1, N.J.A.C. 6A:14-1.2(b) and (c), the district board of education shall assure compliance with the following policies and related procedures below:

**Policy #1:** All students with disabilities, who are in need of special education and related services, including students with disabilities attending nonpublic schools, regardless of the severity of their disabilities, are located, identified and evaluated according to N.J.A.C. 6A:14-3.3.

AND

**Policy #2:** Homeless students are located, identified and evaluated according to N.J.A.C. 6A:14-3.3, and are provided special education and related services in accordance with the IDEA, including the appointment of a surrogate parent for unaccompanied homeless youths as defined in 42 U.S.C. §§11431 et seq.

AND

**Policy #7:** Students with disabilities are afforded the procedural safeguards required by N.J.A.C. 6A:14-2.1 et seq. including appointment of a surrogate parent, when appropriate.

### **Procedures to locate students with disabilities (child find) must ensure that:**

1. Person(s) responsible to conduct child find activities are identified.
2. Child find activities are conducted for all children ages three through 21, who reside within the district or attend nonpublic schools within the district.

SPECIAL EDUCATION (continued)

3. Child find activities are conducted at least annually.
4. Child find activities (meetings, printed materials and/or public service announcements) are conducted in the native language of the population, as appropriate.
5. Child find activities address public and nonpublic students, including highly mobile students such as migrant and homeless students.
6. Child find activities for nonpublic school students are comparable to activities conducted for public school students.
  - a. Child find activities for nonpublic school children provide for consultation with appropriate representatives of the nonpublic school and parents on how to carry out these activities.
7. Child find activities include outreach to a variety of public and private agencies and individuals concerned with the welfare of students, such as clinics, hospitals, physicians, social service agencies and welfare agencies.

**For charter schools or state agencies, procedures must ensure that:**

1. Child find activities are limited to the population of students enrolled in the charter school or served by the state agency.
2. Person(s) to conduct child find activities are identified.
3. Child find activities are conducted at least annually.
4. Child find activities (meetings, printed materials and/or public service announcements) are conducted in the native language of the population, as appropriate.

**Procedures for interventions in the general education program must ensure that:**

1. Criteria/steps for initiating interventions in the general education program are identified.
2. Parents, teachers and other school professionals, as appropriate, are informed of the procedures to initiate interventions in the general education program.
3. Activities are in place to determine whether the interventions are effective.
  - a. School personnel who are responsible for the implementation/evaluation of the interventions are identified; and
  - b. The type, frequency, duration and effectiveness of the interventions are documented.

**Procedures for referral must ensure that:**

1. Steps are in place to refer students after it has been determined that interventions in the general education program are not effective in alleviating the educational difficulties.
2. Steps are in place to refer students directly to the child study team when warranted.
3. Steps are in place to refer students who may be disabled but are advancing from grade to grade.
4. Steps for initiating a referral to the child study team by school personnel identify:

SPECIAL EDUCATION (continued)

- a. The information/documentation of student performance required in the referral;
  - b. Forms, if any, that are to be submitted by school personnel;
  - c. School personnel who are responsible to process referrals; and
  - d. Timelines for processing referrals including the date that initiates the 20-day timeline for conducting the referral/identification meeting.
5. Steps for processing written referrals received from parents identify:
    - a. School personnel who are responsible to process referrals from parents; and
    - b. Timelines for processing referrals including the date that initiates the 20-day timeline for conducting the referral/identification meeting.
  6. School personnel, parents and agencies are informed of referral procedures.

**For students with disabilities potentially in need of a surrogate parent, procedures must ensure that:**

1. A surrogate parent is provided to a student in accordance with N.J.A.C. 6A:14-2.2 when:
  - a. The parent of the student cannot be identified or located.
  - b. An agency of the State has guardianship of the student and that agency has not taken steps to appoint a surrogate parent for the student.
  - c. The student is a ward of the state and no State agency has taken steps to appoint a surrogate parent for the student.
  - d. No parent can be identified for the student in accordance with N.J.A.C. 6A:14-1.3 except a foster parent, the foster parent does not agree to serve as the student's parent and no State agency has taken steps to appoint a surrogate parent for the student.
  - e. The student is an unaccompanied homeless youth and no State agency has taken steps to appoint a surrogate parent for the student.
2. The district will make reasonable efforts to appoint a surrogate parent within 30 days of its determination that a surrogate parent is required for a student.
3. The district will appoint a person who will be responsible for appointing surrogate parents and overseeing the process. The responsible person will:
  - a. The person will determine whether there is a need for a surrogate parent for a student;
  - b. The person will contact any State agency that is involved with the student to determine whether the State has had a surrogate parent appointed for the student; and
  - c. The person will make reasonable efforts to select and appoint a surrogate parent for the student within 30 days of determining that there is a need for a surrogate parent for the student.
4. The district will establish a method for training surrogate parents that includes provision of information with respect to parental rights and procedural safeguards available to parents and students in accordance with N.J.A.C. 6A:14.
  - a. The district will appoint a person that will be responsible for training surrogate parents;
  - b. The training of surrogate parents will ensure that surrogate parents have knowledge and skills that ensure adequate representation of the child with a disability;
  - c. The training will be designed to make surrogate parents familiar with State and federal requirements for assessment, individualized education program development, and parental rights with respect to

SPECIAL EDUCATION (continued)

- the referral and placement process, including their rights with respect to seeking a due process hearing if they disagree with the local procedure or decisions;
- d. Surrogate parents will be provided with copies of: the Parental Rights in Special Education booklet; N.J.A.C. 6A:14; the Special Education Process; Code Training Materials from the Department of Education Website; and other relevant materials; and
  - e. Surrogate parents will be provided information to enable them to become familiar with the nature of the child's disability.
5. The district will ensure that:
- a. All persons serving as surrogate parents have no interest that conflicts with those of the student he or she represents;
  - b. All persons serving as surrogate parents possess knowledge and skills that ensure adequate representation of the student;
  - c. All persons serving as surrogate parents are at least 18 years of age;
  - d. If the school district compensates the surrogate parent for providing such services, a criminal history review of the person in accordance with N.J.S.A. 18A:6-7.1 is completed prior to his or her serving as the surrogate parent; and
  - e. No person appointed as a surrogate parent will be an employee of the New Jersey Department of Education, the district board of education or a public or nonpublic agency that is involved in the education or case of the child.

**Policy #3:** Students with disabilities are evaluated according to N.J.A.C. 6A:14-2.5 and 3.4.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-2.5 and 3.4, no additional written procedures are required.

**Policy #4:** An individualized education program is developed, reviewed, and as appropriate, revised according to N.J.A.C. 6A:14-3.6 and 3.7.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-2.6 and 3.7, no additional written procedures are required.

**Policy #5:** To the maximum extent appropriate, students with disabilities are educated in the least restrictive environment according to N.J.A.C. 6A:14-4.2.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-4.2, no additional written procedures are required.

**Policy #6:** Students with disabilities are included in statewide and districtwide assessment programs, with appropriate accommodations, where necessary according to N.J.A.C. 6A:14-4.10. All students with disabilities will participate in statewide assessments or the applicable Alternate Proficiency Assessment, in grades 3, 4, 5, 6, 7, 8 and 11 in accordance with their assigned grade level.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-4.10, no additional written procedures are required.

**Policy #8:** A free, appropriate public education is available to all students with disabilities between the ages of three and 21, including students with disabilities who have been suspended or expelled from school.

**Procedures regarding the provision of a free, appropriate public education to students with disabilities who are suspended or expelled must ensure that:**

1. School officials responsible for implementing suspensions/expulsions in the district are identified.

SPECIAL EDUCATION (continued)

2. Each time a student with a disability is removed from his/her current placement for disciplinary reasons, notification of the removal is provided to the case manager.
3. A system is in place to track the number of days a student with disabilities has been removed for disciplinary reasons.
4. Suspension from transportation is counted as a day of removal if the student does not attend school.
  - a. If transportation is included in the student's IEP as a required related service, the school district shall provide alternate transportation during the period of suspension from the typical means of transportation.
5. Removal for at least half of the school day is reported via the Electronic Violence and Vandalism Reporting System.
6. If the district has an in-school suspension program, participation in the program is not considered a removal when determining whether a manifestation determination must be conducted if the program provides the following:<sup>1</sup>
  - a. Opportunity for the student to participate and progress in the general curriculum;
  - b. Services and modifications specified in the student's IEP;
  - c. Interaction with peers who are not disabled to the extent they would have in the current placement; and
  - d. The student is counted as present for the time spent in the in-school suspension program.
7. When a series of short-term removals will accumulate to more than 10 school days in the year:
  - a. School officials and the case manager consult to determine whether the removals create a change of placement according to N.J.A.C. 6A:14-2.8(c)2;
  - b. Written documentation of the consultation between school officials and the case manager is maintained;
  - c. If it is determined that there is no change in placement, school officials, the case manager and special education teacher consult to determine the extent to which services are necessary to:
    1. Enable the student to participate and progress appropriately in the general education curriculum; and
    2. Advance appropriately toward achieving the goals set out in the student's IEP; and
  - d. Written documentation of the consultation and services provided is maintained.
8. Steps are in place to convene a meeting of the IEP team and, as necessary or required, conduct a functional behavioral assessment and review the behavioral intervention plan according to N.J.A.C. 6A:14 Appendix A, 20 U.S.C. §1415(k).

**Procedures regarding the provision of a free, appropriate public education to preschool age students with disabilities must ensure that:**

1. Eligible preschool age children who are not participating in an early intervention program have an IEP in effect by their third birthday. Steps include:<sup>2</sup>

---

<sup>1</sup> For the purpose of documenting all removals, in-school suspension must be reported via the Electronic Violence and Vandalism Reporting System even if services were provided.

<sup>2</sup> This procedure does not apply to secondary school districts or charter schools that do not serve preschool age children.

SPECIAL EDUCATION (continued)

- a. Responding to referrals according to N.J.A.C. 6A:14-3.3(e)
- b. Having a program in place no later than 90 calendar days from the date of consent.

**Procedures regarding the provision of a free, appropriate public education to students with disabilities who are advancing from grade to grade must ensure that:**

1. A student with a disability, who is advancing from grade to grade with the support of specially designed services, may continue to be eligible when:
  - a. As part of a reevaluation, the IEP team determines that the student continues to require specially designed services to progress in the general education curriculum; and
  - b. The use of functional assessment information supports the IEP team's determination.

**Policy #9:** Children with disabilities participating in early intervention programs assisted under IDEA Part C who will participate in preschool programs under this chapter will experience a smooth transition and have an individualized education program developed and implemented according to N.J.A.C. 6A:14-3.3(e) and N.J.A.C. 6A:14-3.7.<sup>3</sup>

1. A child study team member of the district will participate in the preschool transition planning conference arranged by the designated service coordinator from the early intervention system and will:
  - a. Review the Part C Individualized Family Service Plan for the child;
  - b. Provide the parent(s) written district registration requirements;
  - c. Provide the parents written information with respect to available district programs for preschool students, including general education placement options; and
  - d. Provide the parent(s) a form to use to request that the Part C service coordinator be invited to the child's initial IEP meeting.
2. The Part C service coordinator will be invited to the initial IEP meeting for a student transitioning from Part C to Part B.

**Policy #10:** Full educational opportunity to all students with disabilities is provided.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-1.1, no additional written procedures are required.

**Policy #11:** The compilation, maintenance, access to and confidentiality of student records are in accordance with N.J.A.C. 6A:32-7.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:32-7, no additional written procedures are required.

**Policy #12:** Provision is made for the participation of students with disabilities who are placed by their parents in nonpublic schools according to N.J.A.C. 6A:14-6.1 and 6.2.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-6.1 and 6.2, no additional written procedures are required.

**Policy #13:** Students with disabilities who are placed in private schools by the district board of education, are provided special education and related services at no cost to their parents according to N.J.A.C. 6A:14-1.1(d) and N.J.A.C. 6A:14-7.5(b)3.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-1.1(d) and 7.5(b)3, no

<sup>3</sup> This procedure does not apply to secondary school districts or charter schools that do not serve preschool age children.

SPECIAL EDUCATION (continued)

additional written procedures are required.

**Policy #14:** All personnel serving students with disabilities are highly qualified and appropriately certified and licensed, where a license is required, in accordance with State and Federal law.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-1.2(b)13, no additional written procedures are required.

**Policy #15:** The in-service training needs for professional and paraprofessional staff who provide special education, general education or related services are identified and that appropriate in-service training is provided. The district board of education shall maintain information to demonstrate its efforts to:

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

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-2.5 and 3.4, no additional written procedures are required.

**Policy #16:** Instructional materials will be provided to blind or print-disabled students in a timely manner.

Instructional materials will be provided to blind or print-disabled students in accordance with a plan developed by the district. The plan will be the Individualized Education Program of each student with a disability, which will set forth the instructional materials needed, how they will be provided, and address any assistive technology needed to permit the student to utilize the materials.

**Policy #17:** For students with disabilities who are potentially eligible to receive services from the Division of Developmental Disabilities in the Department of Human Services, the district will provide, pursuant to the Uniform Application Act, N.J.S.A. 30:4-25.10 et seq., the necessary materials to the parent to apply for such services.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-1.2(b)17, no additional written procedures are required.

**Policy #18:** When the school district utilizes electronic mail, parents are informed as to whether they may use electronic mail to submit requests to school officials regarding referral, identification, evaluation, classification, and the provision of a free, appropriate public education. If this is permitted, parents shall be informed of the procedures to access the electronic mail system and that they may not utilize electronic mail to provide written consent when the district provides written notice and seeks parental consent as required by N.J.A.C. 6A:14.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-1.2(b)18, no

SPECIAL EDUCATION (continued)

additional written procedures are required.

**Policy #19:** The school district will provide teacher aides and the appropriate general or special education teaching staff time for consultation on a regular basis as specified in each student's IEP.

**Procedures:** Due to the specificity of the requirements at N.J.A.C. 6A:14-4.5(d), no additional written procedures are required.

<b>Legal References:</b>	<u>N.J.S.A. 10:5-1 et seq.</u>	Law Against Discrimination
	<u>N.J.S.A. 18A:46-1 et seq.</u>	Classes and Facilities for Handicapped Children
	See particularly:	
	<u>N.J.S.A. 18A:46-13</u>	
	<u>N.J.S.A. 18A:46A-1 et seq.</u>	Auxiliary Services
	<u>N.J.A.C. 5:23-7</u>	Barrier free subcode of the uniform construction code
	<u>N.J.A.C. 6A:7-1.7</u>	Equality in school and classroom practices
	<u>N.J.A.C. 6A:8-1.2</u>	Scope
	<u>N.J.A.C. 6A:8-1.3</u>	Definitions
	<u>N.J.A.C. 6A:8-3.1</u>	Curriculum and instruction
	<u>N.J.A.C. 6A:8-4.1 et seq.</u>	Implementation of the Statewide Assessment System
	<u>N.J.A.C. 6A:8-5.1 et seq.</u>	Implementation of Graduation Requirements
	<u>N.J.A.C. 6A:9-1.1 et seq.</u>	Professional Licensure and Standards
	See particularly:	
	<u>N.J.A.C. 6A:9-11.3</u>	
	<u>N.J.A.C. 6A:14-1.1 et seq.</u>	Special Education
<u>N.J.A.C. 6A:15-1.4</u>	Bilingual programs for limited English proficient students	
	<u>N.J.A.C. 6A:23A-1.1 et seq.</u>	Fiscal accountability, efficiency and budgeting procedures
	See particularly:	
<u>N.J.A.C. 6A:23A-17.5, -17.6, -17.7, -18.1 et seq.</u>		
<u>N.J.A.C. 6A:26-6.1 et seq.</u>	Facilities	Planning and Construction Standards for School
<u>N.J.A.C. 6A:30-1.1 et seq.</u>		Evaluation of the Performance of School Districts
<u>N.J.A.C. 6A:32-7.1 et seq.</u>		Student Records
<u>N.J.A.C. 6A:32-8.3</u>		School attendance
<u>N.J.A.C. 6A:32-12.1</u>		Reporting requirements
<u>N.J.A.C. 6A:32-14.1</u>		Review of mandated programs and services

No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C.A. 6301 et seq.

20 U.S.C.A. 1400 et seq. - 1990 Individuals With Disabilities Education Act, P.L. 101-476 (formerly Education for All Handicapped Children Act--Part B)

29 U.S.C.A. 794 et seq. - Section 504 of the Rehabilitation Act of 1973

34 CFR 76.1 et seq. - General Administrative Regulation EDGAR

34 CFR 77.1 et seq. - General Administrative Regulation EDGAR

34 CFR 300 - Assistance to States for the Education of Children with Disabilities (IDEA Regulations)

Agostini v. Felton, 521 U.S. 203 (1997), overruling Aguilar v. Felton, 473 U.S. 402 (1985)

SPECIAL EDUCATION (continued)

Honig v. Doe, 484 U.S. 305 (1988)

Oberti v. Board of Education of Clementon School District, 995 F. 2d 1204, 1216-17 (C. A.3 1993)

Cedar Rapids Community School District v. Garrett F., 526 U.S. 66 (1999)

**Possible**

<b><u>Cross References:</u></b>	*1120	Board of education meetings
	*4112.2	Certification
	*4131/4131.1	Staff development; inservice education/visitations/conferences
	*5114	Suspension and expulsion
	*5120	Assessment of individual needs
	*5125	Student records
	*5131	Conduct/discipline
	*5200	Nonpublic school students
	*6121	Nondiscrimination/affirmative action
	*6145	Extracurricular activities
	*6151	Class size
	*6164.2	Guidance services
	*6164.4	Child study team
	*9322	Public and executive sessions

\*Indicates policy is included in the Critical Policy Reference Manual.