

VALLEY STREAM UNION FREE SCHOOL DISTRICT TWENTY-FOUR

**PROGRAMS FOR STUDENTS WITH DISABILITIES
UNDER THE IDEA AND NEW YORK
EDUCATION LAW ARTICLE 89**

Policy 5400

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I. General

The Board of Education shall provide a free appropriate public education to all students with disabilities who reside within the School District and are eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) and Article 89 of New York's Education Law, and their implementing regulations. Special education and related services will be provided to resident eligible students with disabilities in conformity with their individualized education program (IEP) and in the least restrictive environment appropriate to meet their individual educational needs. Special education services or programs will be designed to enable a student with disabilities to be involved in and progress in the general education curriculum, to the extent appropriate to his/her needs.

The Board of Education also shall make available special education and related services to eligible students with disabilities parentally placed in a nonpublic school located within the School District, regardless of whether they are residents of the School District. However, this obligation does not extend to resident students with disabilities who are placed by their parents in a nonpublic school within School District boundaries because of a disagreement between the parents and the School District over the provision of a free appropriate public education. Nonpublic school students with disabilities who are not School District residents but who reside within New York State will be provided programs and services in accordance with their individualized education services program (IESP).

II. Least Restrictive Environment

The Board of Education recognizes its responsibility to provide students with disabilities with special education programs and services under the IDEA and Article 89 of New York's Education Law and for students to receive those services in the least restrictive environment appropriate to meet their individual educational needs.

Therefore, the School District will not place students with disabilities in special classes or separate schools, or otherwise remove them from the regular educational environment unless the nature or severity of their disability is such that their education cannot be achieved satisfactorily in regular classes, even with the use of supplementary aids and services. In addition, the School District will provide special services or programs to enable students with disabilities to be involved in and progress in the general curriculum, to the extent appropriate to their needs.

To fulfill its responsibility to educate students with disabilities in the least restrictive environment, the School District will implement the provisions of section 200.6 of the Commissioner's Regulations.

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Furthermore, and pursuant to those provisions, students with disabilities placed together for purposes of receiving special education will be grouped by similarity of individual needs including their range of academic achievement, functional performance and learning characteristics; social and physical development, and management needs.

The Superintendent of Schools or his/her designee will establish a process that the CSE or CSE subcommittee Chairperson, as appropriate, obtains an up-to-date copy of the Commissioner's Regulations at the beginning of each school year, and copies of any amendments that become effective during the school year.

The Board of Education also recognizes that the least restrictive environment requirements established by applicable law and regulations also extend to nonacademic settings. Therefore, to the extent appropriate to their individual needs, eligible students with disabilities residing within the School District and attending the School District's public schools will be entitled to participate in School District academic, co-curricular and extracurricular activities available to all other students enrolled in the School District's public schools. Such co-curricular and extracurricular activities may include, but are not limited to, athletics, transportation, recreational activities, school-sponsored special interest groups or clubs, and referrals to agencies that provide assistance to individuals with disabilities. Students with disabilities, and their parents, will be informed of the availability of such programs and activities and their eligibility to participate.

The School District will provide School District programs and activities, including extracurricular activities that are accessible to students with disabilities to the extent appropriate to their individual needs. The School District will make individual modifications to include physical facilities, scheduling and transportation arrangements, so that students are not excluded because of the presence of a disability.

In providing a free appropriate public education to students with disabilities eligible under the IDEA and Article 89, the Board of Education will afford students and their parents the procedural safeguard rights to which they are entitled under applicable law and regulations. The Board of Education also will provide them with notice of such rights as required by law and regulation, using the form prescribed by the Commissioner of Education.

For purposes of this policy and others related to the provision of services to eligible students with disabilities, and consistent with applicable law and regulation, the word "parent" means a birth or adoptive parent, a legally appointed guardian generally authorized to act as the child's parent or authorized to make educational decisions for the child; a person in parental relationship to the child as defined in section 3212 of the Education Law; an individual designated as a person in parental relation pursuant to title 15-A of the General Obligations Law, including an individual so designated who is acting in the place of a birth or adoptive parent (including a grandparent, stepparent, or other relative with whom the child resides; or a surrogate parent who has been appointed in accordance with commissioner's regulations.

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Eligible students with disabilities will be entitled to special education and related services until the end of the school year in which they turn twenty-one (21) or until they receive a local high school or Regents diploma.

Students with disabilities may not be required to take medication as a condition for receiving a free appropriate public education.

The School District will provide services to students with disabilities in accordance with the following:

1. The Board will adopt and maintain a district special education services plan in conformance with the Commissioner's Regulations. The plan will be available for public inspection and review by the Commissioner of Education.
2. School District staff will take steps to locate, identify, evaluate and maintain information about all children with disabilities within the School District, including homeless children and children who are wards of the state, and children attending nonpublic school within the School District (including religious schools), who are in need of special education.
3. The School District will establish a plan and practice for implementing school-wide approaches and interventions in order to remediate a student's performance prior to referral for special education services. The School District will provide general education support services, instructional accommodations, and/or alternative program options to address a student's performance before referring the student to the Committee on Special Education (CSE). The Instruction Support Team will develop, implement and evaluate pre-referral intervention strategies.
4. School District staff will initiate a request for evaluation of a student who has not made adequate progress after an appropriate period of time when provided instruction under a response to intervention program. In making the request the staff person will describe in writing intervention services, programs, or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services provided for this purpose, or state the reasons why no such attempts were made. In addition, the extent of parental contact will be described as well.
5. The Board of Education will appoint a committee on special education (CSE), and, as appropriate, CSE subcommittees, to assure the timely identification, evaluation and placement of eligible students with disabilities.
6. The Board of Education will arrange for special education programs and services based upon the recommendation of the CSE or CSE subcommittee.

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7. The Superintendent of Schools or his/her designee will establish a plan for the recruitment, hiring and retention of staff appropriately and adequately prepared to meet the needs of students with disabilities including, but not limited to, highly qualified special education teachers.
8. The Superintendent of Schools or his/her designee will establish a comprehensive professional development plan designed to ensure that personnel necessary to carry out IDEA and Article 89 possess the skills and knowledge required to meet the needs of students with disabilities.
9. The Superintendent of Schools or his/her designee will establish a process for ensuring that School District staff understand the right of students with disabilities to access and participate in the same academic, co-curricular and extracurricular programs and activities as all other students enrolled in the School District's schools, to the extent appropriate to their individual needs.

III. Locate and Identify Students with Disabilities

The School District will conduct an annual census to locate and identify all students with disabilities who reside in the School District, and establish a register of such students who are entitled to attend the public schools of the School District during the next school year, including students with disabilities who are homeless or wards of the State. The census shall be conducted, and the registry maintained, in accordance with the requirements established in Commissioner's regulations.

The School District's activities for locating and identifying parentally-placed nonpublic school students with disabilities will be comparable to those undertaken for students attending the School District's public schools, and will be completed in a comparable time period, as well.

The Superintendent of Schools will determine what other activities might be appropriate to help locate and identify students with disabilities. These may include, but are not limited to, the mailing of letters to all School District residents regarding the availability of special education programs and services and their right to access such services, and/or the publication of a similar notice in school newsletters and other publications.

IV. Evaluation of Students with Disabilities

To initially determine a student's eligibility for a free appropriate public education under the IDEA and Article 89, the School District will conduct a full evaluation of the student within legally prescribed time lines. As set forth in Commissioner's regulations, the initial evaluation will include, at least, a physical examination, an individual psychological evaluation unless the school psychologist determines it unnecessary, a social history, an observation of the student in the

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student's learning environment to document the student's academic performance and behavior in the areas of difficulty, and other appropriate assessments or evaluations (including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others) to ascertain the physical, mental, behavioral and emotional factors that contribute to the suspected disabilities.

Once a student has been determined eligible to receive a free appropriate public education, the School District will reevaluate the student with a disability whenever the student's parent requests a reevaluation, and when the School District determines the educational and related services needs (including improved academic achievement and functional performance) of the child warrant a reevaluation. However, a reevaluation must take place at least once every three (3) years, unless the student's parent and the School District agree it is unnecessary.

V. Parental Consent for Student Evaluations

Before conducting any type of evaluation, School District staff will take steps to obtain written informed consent from a student's parent, as required by applicable law and regulations. They also will keep a detailed record of those attempts and their results, including phone calls and correspondence, visits to the parent's home and any responses received.

1. If a parent refuses to give consent for an initial evaluation, or fails to respond to such a request, the parent will be given an opportunity to attend an informal conference and ask questions about the proposed evaluation. Unless the referral for evaluation is withdrawn, if the parent continues to withhold consent, the Board of Education may commence due process proceedings to conduct an initial evaluation without parental consent within the time lines established in Commissioner's regulations.
2. If a parent refuses to give consent for a reevaluation, or fails to respond to such a request, School District staff will proceed with the reevaluation without parental consent if it has engaged in documented reasonable efforts to obtain such consent and the parent has failed to respond. If the School District cannot document its efforts to obtain consent, the Board of Education may commence due process proceedings to conduct a reevaluation without parental consent.
3. If School District staff is unable to obtain consent for the initial evaluation or reevaluation of a home schooled or a parentally-placed nonpublic school student, the Board of Education will not commence due process proceedings to conduct the evaluation without parental consent, and will consider the student as not eligible for special education.

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VI. Referral Process

In conducting evaluations of students with disabilities, the School District will use a variety of assessment tools and strategies, including parent-provided information, to gather relevant functional, developmental, and academic information for determining a student's eligibility for special education and related services, and the content of the student's individualized education program or individualized education services program or services plan in the case of nonpublic school students with disabilities (including information related to enabling the student to be involved in and progress in the general education curriculum).

The School District also will assess a student in all areas of suspected disability, and the assessment and other evaluation used will not be discriminatory on a racial or cultural basis. In addition, students will be assessed in the language and form most likely to yield accurate information on what the student actually knows and can do academically, developmentally, and functionally, unless it is not feasible to do so.

In the case of students suspected of having a specific learning disability, the School District will follow the procedures established in the Commissioner's Regulations.

The School District will notify a student's parent of any determination that no additional data is needed and the reasons for such a determination. It will also inform the parent of his or her right to request an assessment, notwithstanding that determination.

VII. Eligibility Determination

The CSE or CSE subcommittee will determine whether a student is eligible for special education and related services under the IDEA and Article 89, as well as the student's educational needs.

The CSE or CSE subcommittee may not determine that a student is eligible for special education and related services if the determining factor is lack of appropriate instruction in the essential components of reading, including phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills), and reading comprehension strategies; or lack of appropriate instruction in math; or limited English proficiency.

VIII. Committee on Special Education

The members of the CSE and CSE subcommittees will include those individuals identified in applicable law and regulations, and their attendance at CSE and CSE subcommittee meetings will be required except as otherwise provided in law and regulations.

The parent of a student with disabilities is one of the mandated CSE and CSE subcommittee members and, as such, has a right to participate in CSE and CSE subcommittee meetings

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concerning the identification, evaluation, educational placement, and the provision of a free appropriate public education to their child.

School District staff will take steps to promote the parent's participation, in accordance with the following:

1. CSE and CSE subcommittee meetings will be scheduled at a time and place that is mutually agreeable to the parent and the School District.
2. The parent will be given at least five (5) days' notice of the time and place of a CSE or CSE subcommittee meeting, except as otherwise provided in law and regulation, along with notice of the purpose of the meeting, those who will attend (including name and title), and the parent's right to be accompanied to the meeting by person(s) the parent considers to have knowledge and special expertise about their child.
3. The parent and the School District may agree to use alternative means of participation at CSE meetings, such as videoconferences or telephone conference calls.
4. School District staff will take steps to provide the parent with an understanding concerning the proceedings at CSE meetings, including arranging for an interpreter for deaf parents or parents whose native language is other than English.

The CSE or CSE subcommittee may meet without a student's parent only if the School District's staff have been unable to obtain either parent's participation, and has a record of its attempts to arrange a mutually agreed upon time and place. Similarly, the CSE or CSE subcommittee may make a decision without the involvement of the student's parent only if School District staff has been unable to obtain parental participation, even through the use of alternative means of participation, and has a record of its attempts to provide parental involvement.

IX. Parental Consent for the Provision of Services

The Board of Education acknowledges that parental consent for initial evaluation does not constitute consent for placement for the provision of special education and related services. Therefore, School District staff will take steps to obtain written informed consent for the initial provision of special education and related services to an eligible student. The Board of Education will be precluded by applicable law and regulations from commencing due process proceedings to override the parent's refusal to provide such consent or override the parent's failure to respond to such a request.

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X. Independent Educational Evaluations (IEE)

The Board of Education recognizes the right of parents or guardians of a student who has or is thought to have a disability to receive an independent evaluation at public expense if they disagree with the evaluation obtained by the Committee on Special Education (CSE) or the Committee on Preschool Special Education (CPSE). A parent and/or guardian is entitled to only one such evaluation when in disagreement with an evaluation conducted by the School District.

The independent examination shall be conducted by a qualified examiner who is not employed by the School District responsible for the child's education. Upon request, a parent or guardian will be provided with a list of public and private agencies and professional resources where independent evaluations may be obtained. A parent and/or guardian may select professionals to conduct an independent evaluation from a list provided by the School District or may select others who meet the School District's criteria below. The School District may ask the parent and/or guardian the reason why he/she objects to the public evaluation. Whenever an IEE is at public expense, the School District will pay the reasonable costs associated with the evaluation. "Reasonable costs" are defined as not exceeding the evaluation costs of any university hospital within a fifty (50) mile radius of the School District. The parent/guardian will be provided with an opportunity to demonstrate that unique circumstances justify an Independent Educational Evaluation that does not fall within the above-stated criteria.

Parents or guardians should file a written request for an independent evaluation with the Director of Pupil Services. The School District has the right to initiate an impartial hearing to demonstrate that its evaluation is appropriate or that the evaluation obtained by the parent and/or guardian does not meet School District criteria. If the hearing officer determines that the School District's evaluation was appropriate, or the evaluation obtained by the parent and/or guardian did not meet School District criteria, the parent and/or guardian has the right to an independent educational evaluation at their own expense.

Any independent educational evaluation will be reviewed by the CSE/CPSE and will take into consideration in its decision the provision for an appropriate public education.

If a parent and/or guardian intends to seek funding for the cost of the evaluation, they must adhere to the following criteria:

- The qualifications of the evaluator(s) and the location of the evaluations shall be the same as the criteria which the School District uses when it initiates an evaluation;
- Psychologists must be licensed by the State of New York as a clinical psychologist or certified as school psychologists;
- The evaluation will be limited to the same geographic location (i.e., within a 50-mile radius of the School District);

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- The tests performed must be norm-referenced for the age and educational level of the student, and measure the same cognitive, motor, and affective skills as School District tests; and
- The cost of an independent educational evaluation requested by an impartial hearing officer shall be at School District expense.

XI. Declassification

The Board of Education recognizes that it may be appropriate to declassify some students with disabilities. A student may develop skills such that they no longer require the special program, support services or accommodations offered by an Individualized Education Program (IEP), Individualized Education Services Program or (IESP). The Committee on Special Education (CSE), the CSE Subcommittee or, the Committee on Preschool Special Education (CPSE), as applicable, is responsible for making this judgment, while adhering to the requirements of federal and state law and regulation.

It is the goal of the Board of Education to provide an opportunity for the student to succeed in the transition to the regular education program. In order to facilitate that success, the CSE/CPSE may offer educational and support services for a period of time, not to exceed one year.

XII. Re-evaluation

Prior to determining that a student is no longer eligible for special education services and should be placed in a full-time regular education program, the CSE, CSE subcommittee, or CPSE, as applicable, will conduct a declassification evaluation of the student in accordance with the process and procedures prescribed for the evaluation and reevaluation of students with disabilities, by applicable law and regulations. However, the CSE, CSE subcommittee, or CPSE members may determine after reviewing existing evaluation data that no additional information is needed to determine the student's continued eligibility for services.

When a determination is made that no additional data is needed for reviewing a student's continued eligibility for special education services, the CSE, CSE subcommittee, or CPSE Chairperson, as applicable, will notify the student's parents of that determination and the reasons for it, and of their right to nonetheless request an assessment. Unless the student's parents make such a request, the School District will not conduct any further assessments.

The School District will provide the student's parents with a copy of the reevaluation report and documentation regarding the eligibility determination.

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XIII. Pre-School Special Education

The Board of Education recognizes the value of special education and its responsibility to provide all resident preschool children with disabilities with an opportunity to participate in special programs and services from which they may benefit. The Board of Education authorizes the Superintendent of Schools to establish administrative practices and procedures which shall include:

1. locating and identifying all preschool children with disabilities pursuant to the relevant provisions of the Education Law. The register of children eligible to attend a preschool program is to be maintained and revised annually by the Committee on Preschool Special Education (CPSE);
2. ensuring that the parent(s)/guardian(s) of preschool age children with disabilities have received and understand the request for consent for evaluation of their child;
3. developing an individualized education program (IEP) for each preschool age child with a disability;
4. appointing and training appropriately qualified personnel including the members of a CPSE;
5. maintaining lists of impartial hearing officers and of State Education Department-approved special education programs within the county and adjoining counties in which the School District is located;
6. preparing and keeping on file summary reports of student data including the number of preschool students with disabilities served, as well students referred but not served and the reasons why they are not served; and
7. reporting to the State Education Department the data on preschool children with disabilities as required, on a form prescribed by the Commissioner. .

The duties described above will be carried out within the timeframes established by statute and regulation.

The Board of Education hereby establishes the CPSE as required under the Education Law. Its responsibilities will include the evaluation and recommendation for placement in appropriate approved programs and the provision of appropriate special education programs and services for each preschool child with a disability. The CPSE shall review, at least annually, the status of each preschool child with a disability.

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It is ultimately the responsibility of the Board of Education to arrange for the appropriate approved preschool program and services for the School District children. Should the Board of Education disagree with the CPSE's recommendations, it shall send the recommendation back to the CPSE so that they may schedule a timely meeting to review the Board of Education's concerns and to revise the IEP as deemed appropriate.

Placement may be appealed by a parent/guardian to an impartial hearing officer, appointed by the Board of Education. Mediation shall be offered to such parents/guardians to resolve complaints regarding the education of preschool children with disabilities at the same time notice of the availability of an impartial hearing is provided.

The CPSE shall make quarterly reports on the status of each preschool child with a disability and report on the adequacy of preschool special education programs and services to the Board of Education.

The Superintendent of Schools or his/her designee will determine that the School District has made available adequate and appropriate space for programs and services for pre-school students with disabilities.

The Board of Education directs the Superintendent of Schools to develop and maintain a plan which incorporates information concerning the provision of services for preschool children with disabilities, pursuant to the Regulations of the Commissioner of Education.

XIV. Provision of Services

The Board of Education will arrange for appropriate special education and related services recommended by the CSE, CPSE, CSE or CPSE subcommittee within sixty (60) school days of the School District's receipt of parental consent to evaluate a student not previously identified as a student with a disability, or within sixty (60) school days of referral for review of a student with a disability, except as otherwise provided in law and regulations.

If the Board of Education disagrees with the recommendations of the CSE, the Board of Education will either return the recommendation to the original CSE for further consideration, or establish a second CSE to develop a new recommendation for the student within the time frames contained in law and regulation.

All staff and/or related service providers responsible for the implementation of a student's individual education program (IEP), Individual Education Services Program, will be provided with information regarding those responsibilities in addition to a paper or electronic copy of the IEP prior to the implementation of such IEP or shall be able to access such student's IEP electronically.

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XV. Annual Review

The CSE/CPSE shall annually review the IEP or IESP of each student with a disability to determine:

1. The extent to which the student can benefit from participation in regular educational programs and services in the least restrictive environment;
2. The extent to which credit toward a high school diploma can be granted through participation in special education programs; and
3. The student's progress toward a high school diploma.

At each annual review of a student's IEP, the CSE shall consider the appropriateness of modifications, such as equipment modifications, modification of instructional techniques, and testing modifications.

Cross ref: Policy 5415 *et. seq.*

Ref: The Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 *et seq.*;
Education Law Article 89, §§4401 *et seq.*

34 CFR Part 300 *et seq.*; 34 CFR §300.305; 34 CFR 300.503;
8 NYCRR Part 200; 8 NYCRR §§200.2(b)(4); 200.6 8 NYCRR §§200.1(u);
8 NYCRR 200.2(b)(8), 200.4(b)(4-6), (c)(3-4); 200.5(a)(1)(vi)(a); 200.5(b); 200.5(c)(6)
8 NYCRR §§100.1(q), (ooo)

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