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### **Board of Education Members**

Adam Eirand, President  
Michael Arone, Vice President  
Nancy Bourke, Trustee  
Kimberly Breiland, Trustee  
Mary Vaught, Trustee  
Dorothy Ziegelbauer, Trustee

## **REGULAR BOARD OF EDUCATION MEETING**

June 20, 2019  
Thursday, 7:00 PM

George Grant Mason School  
Multipurpose Room

### **AGENDA**

- I. Call to Order
- II. Roll Call and Quorum Check
- III. Pledge of Allegiance
- IV. Recognition of Retirees
- V. Public Comment (Up to 3 minutes per person; 30 minutes total per meeting)
- VI. Routine Business
  1. Approval of Board Meeting Minutes – 05/16/2019, 5/29/19
  2. Administrators' Reports
  3. OCSBA Update
- VII. Items for Action and/or Discussion
  1. Warrants, Transfers & Bids
  2. CPSE/CSE
  3. Acceptance of School Budget Vote & Board of Education Election
  4. 2019/20 Additional New Courses
  5. Acceptance of Non-Resident Students
  6. Energy Purchase Resolution
  7. 2019 Reserve Fund Balance Resolution
  8. Donations
  9. Bus Lease Resolution
  10. Resolution to Adopt Special Education Plan
  11. Personnel
  12. Formation of Strategic Planning Advisory Committee
  13. Roundtable Discussions
    - Board Member Teacher Liaison Committee
    - BOE Meetings Venue change
    - Sensory Hallway Creation
    - Theatre Program Committee
    - Full Time IT Position
- VIII. Public Comment (Up to 3 minutes per person; 30 minutes total per meeting)
- IX. Adjournment

## ITEMS FOR ACTION/DISCUSSION

### 2.1 CSE/CPSE

It is recommended that the Tuxedo Board of Education approve the Committee of Special Education recommendations 2.01 – 2.18.

### 3.1 Acceptance of School Budget Vote & Board of Education Election

It is recommended that the Tuxedo Board of Education accept the Certification of the Tuxedo Union Free School District School Budget and Board of Education Voting Results of May 21, 2019, as provided by the District Clerk, Arlene Dyba.

### 4.1 Approval of New Courses

It is recommended the Tuxedo Board of Education approve the following courses to be added to the Program of Study for the 2019/2020 School Year:

- YOGA
- THEATRE ARTS

### 5.1 Acceptance of Non-Resident Tuition Students

**BE IT RESOLVED** that the Tuxedo Union Free School District Board of Education accept 6 returning Non-Resident Tuition Students effective the start of the 2019/20 school year.

**6.1 Energy Purchasing Resolution**

WHEREAS the Tuxedo Union Free School District is participating, with other Rockland and Orange County School Districts, in cooperative bids for the purchase of electricity and natural gas, sponsored by the Rockland County BOCES; and

WHEREAS the bidding procedures comply in every respect with the requirements established by the General Municipal Law; and

WHEREAS, the electricity and natural gas markets are highly volatile and prompt action is required to secure the benefit of the lowest possible rates; and

WHEREAS, the delay in waiting for formal action by this Board may result in the loss of the bid prices; and

WHEREAS, the Board believes that it can establish reasonable limits on the power of the Superintendent to act in the Board’s name and authority, subject to later ratification by this Board;

NOW, THEREFORE, on motion duly made by \_\_\_\_\_ and seconded by \_\_\_\_\_ it is

RESOLVED that this Board hereby delegates to the Superintendent of Schools the authority to accept bids for electricity and natural gas submitted pursuant to the cooperative bid on the following conditions:

- a. The annual ceiling price bid for electricity is **8.0¢ per kWh** or less;
- b. The annual ceiling price bid for natural gas Basis is **\$4.00/mmBtu** or less;<sup>1</sup>
- c. The annual ceiling price for natural gas commodity at the NYMEX Henry Hub is **\$3.95/mmBtu** or less; and it is further

RESOLVED that the Superintendent is to report to this Board, in writing, within 24 hours any action he has taken pursuant to this resolution; and it is further

RESOLVED that this delegation of authority may be revoked at any time by action of this Board.

This cost is for the transmission of gas.

## **7.1 RESOLUTION - Reserve Fund Balance**

RESOLVED, that the Board of Education of the Tuxedo Union Free School District hereby authorizes the funding of the District approved reserves with the excess of 4% from unassigned fund balance at June 30, 2019. The allocation of such fund balance will be determined subsequent to June 30, 2019 and prior to setting the tax levy.

## **8.0 Donations**

**8.01** It is recommended the Tuxedo UFSD Board of Education accept the donation of 8 throw pillows with historic portraits of famous authors, from Mrs. Dana Givens.

**8.02** It is recommended the Tuxedo UFSD Board of Education accept the donation of a grill from Mrs. Jenn Creamer.

**8.03** It is recommended the Tuxedo UFSD Board of Education accept the donation of an Outdoor Classroom Pavilion from the Tuxedo PTO

## **9.01 Bus Lease**

**BE IT RESOLVED** the Tuxedo UFSD Board of Education authorizes the Board President to execute the bus leasing contract with MGI Specialty Leasing LLC, as attached, commencing July 1, 2019.

## **10.01 Special Education Plan**

**BE IT RESOLVED**, that the Tuxedo Union Free School District Board of Education hereby adopts the Tuxedo Union Free District Special Education Plan, as attached, for the 2019-2020 school year.

## **11.0 PERSONNEL**

### **11.1 Retirement**

<b>NAME</b>	<b>POSITION</b>	<b>EFFECTIVE DATE</b>
Ann Earl	Teacher's Aide	6/29/19
Janice Wilcox	Bus Monitor	6/26/19

### 11.2 Resignation - *RESCIND*

<u>NAME</u>	<u>POSITION</u>	<u>EFFECTIVE DATE</u>
James Rohe	Part-Time Custodial Worker	6/28/2019

### 11.3 Resignation

<u>NAME</u>	<u>POSITION</u>	<u>EFFECTIVE DATE</u>
Bridget Ryan	English Teacher 7-12	6/29/2019

### 11.4 Instructional Appointments

<u>NAME</u>	<u>POSITION</u>	<u>EFFECTIVE DATE</u>	<u>SALARY</u>
Rose Laure Thomason	.6 FTE Guidance Counselor	7/01/19	\$51,119.40
Alyssa Gold (pending fingerprint clearance)	.8 FTE Occupational Therapist	7/01/19	\$58,284
Mariah Klimowich	1.0 FTE Elementary Classroom Teacher Probationary	7/01/19	\$71,094
Mark Stankiewicz	.6 FTE Art Teacher	7/01/19	\$51,119

### 11.5 Non-Instructional Appointments

<u>NAME</u>	<u>POSITION</u>	<u>EFFECTIVE DATE</u>	<u>SALARY</u>
Dylan Lohmeyer	Custodial-Summer Temp.	7/01/19- 6/30/20	\$11.10/hr
Daria Fatemi	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Lucas Maretzo	Custodial-Summer Temp.	7/01/19– 6/30/20	\$11.10/hr
Joseph Castellanos	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Andrew Hackett	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Kristen Costello	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Dustin LaBar	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Heidi Willins	Custodial Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
Madison Arcuni	Custodial-Summer Temp.	7/01/19 – 6/30/20	\$11.10/hr
John Dworjan	Trans. Dept. - PT Summer	7/08/19 – 8/16/19	\$19.96/hr.
Cynthia Reese	Trans. Dept. - PT Summer	7/08/19 – 8/16/19	\$18.00/hr.
Eric Mann	Trans. Dept. – PT Summer	8/19/19 – 8/30/19	\$30.89/hr.
John Conklin	Trans. Dept. – PT Summer	7/08/19 – 8/16/19	\$19.96/hr.
Marisol Ramos	Trans. Dept. – PT Summer	7/08/19 – 8/16/19	\$26.03/hr.
Josh Lorquet	Trans. Dept. – PT Summer Sub.	7/08/19 – 8/30/19	\$20.00/hr.
Gary Parker	Trans. Dept. – PT Summer	7/08/19 – 8/16/19	\$12.24/hr.
Sandra McGrady	Trans. Dept. – PT Summer	7/08/19 – 8/16/19	\$12.24/hr.

These appointments are made on an emergency, conditional basis, in accordance with applicable law, Board of Education Policy, and the execution of appropriate documents required by the Tuxedo Union Free School District.

### **Administrative Appointments**

**11.6** It is recommended that the Tuxedo Board of Education appoint Traci M. Ferreira to the position of Elementary Principal, effective July 1, 2019, at an annual salary of \$140,000. Mrs. Ferreira will serve a probationary period of four years.

**11.7** It is recommended that the Tuxedo Board of Education appoint Alexis Kearsey to the position of Director of Student Services, effective July 1, 2019, (pending receipt of internship certificate), at an annual salary of \$115,000. Mrs. Kearsey will serve a probationary period of four years.

### **11.8 Tuxedo Employees Union Contract (TEU)**

**BE IT RESOLVED,** the Board of Education of the Tuxedo Union Free School District authorizes the expenditures of monies for those employees covered under the Tuxedo Employees Union Contract (TEU), as per the Memorandum of Agreement, effective 7/01/2018 – 6/30/2020 in the amount of \$31,700.

### **11.9 Item “A” Employees**

**BE IT RESOLVED,** the Board of Education of the Tuxedo Union Free School District authorizes the expenditures of monies that equate to a 2.5% increase (+\$9,683) for those non-represented employees covered under Item A, effective 7/01/2019.

### **11.10 Item “B” Employee**

**BE IT RESOLVED,** the Board of Education of the Tuxedo Union Free School District authorizes the expenditures of monies that equate to a 2.5% increase (+\$2,875) for those non-represented employee(s) covered under Item B, effective 7/1/2019.

**11.11 Activity/Club**

<b>NAME</b>	<b>NAME</b>
Art Club – HS	National Junior Honor Society
Art-GGM	Odyssey of the Mind
Basketball-GGM	Production Team
Drama Club-Haunted Hallways	Senior Class Advisor
Drama Club- GGM	Spring Musical Director
Drama Club- HS Spring Musical	STEM Advisor
Engineering Club	Student Council- GGM
Fitness Club	Student Council- HS
Garden Club	Yearbook- GGM
Homework Club	Yearbook- HS
Jazz Ensemble	
National Honor Society	

**11.12 Athletic Teams**

<b>FALL</b>	<b>WINTER</b>	<b>SPRING</b>
Cross Country - VARSITY	Basketball-Boys-MODIFIED	Baseball- MODIFIED
Soccer – MODIFIED	Basketball Boys - VARSITY	Baseball - VARSITY
Soccer - JV	Basketball-Girls-MODIFIED	Softball - MODIFIED
Volleyball - MODIFIED	Basketball-Girls-VARSITY	Softball - VARSITY
Volleyball - JV	Wrestling- VARSITY	
Volleyball - VARSITY		

CERTIFICATION OF TUXEDO UNION FREE SCHOOL DISTRICT SCHOOL BUDGET AND  
BOARD OF EDUCATION VOTING RESULTS

MAY 21, 2019

**SHALL the proposed 2019-2020 School Year Budget, calling for expenditures of \$13,479,103, be approved and the necessary taxes be levied for it?**

	YES	NO
Machine Ballots	283	229
Absentee Ballots	16	18
<b>Total Votes</b>	<b>299</b>	<b>247</b>

**Shall the Board of Education of the Tuxedo Union Free School District implement a system of walk-in voter registration, for voters wishing to be registered with *only* the district, under which registration will be conducted from 8:30 a.m. to 3:30 p.m. on days when the District Offices are open, at the Office of the District Clerk in the George F. Baker High School; 1 Tornado Drive; Tuxedo, NY, effective July 1, 2019.**

	YES	NO
Machine Ballots	269	190
Absentee Ballots	19	14
<b>Total Votes</b>	<b>288</b>	<b>204</b>

**BOARD OF EDUCATION MEMBER – VOTE FOR FOUR**

NAME	MACHINE BALLOTS	ABSENTEE BALLOTS	TOTAL VOTES
Dorothy Ziegelbauer	256	17	273*
Alyssa Horneff	216	19	235
Daniel G. Castricone	275	14	289*
Joe Rickard	234	21	255
Lucy Cerezo Scully	267	10	277*
Anne Susan Heywood	182	20	202
Michael Arone	250	14	264**

\*3 year term winners

\*\*2 year term winner



CERTIFICATION OF TUXEDO UNION FREE SCHOOL DISTRICT SCHOOL BUDGET AND  
BOARD OF EDUCATION VOTING RESULTS

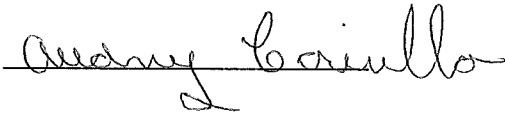
MAY 21, 2019

**WRITE-IN BALLOTS FOR BOARD OF EDUCATION MEMBER**

NAME	MACHINE BALLOTS	ABSENTEE BALLOTS	TOTAL VOTES
M. Fidelis Feeley	1		1
Tara Schutz	1		1
Tom Reedy	1		1
Dot Schmidt	1		1
Andy Berish	1		1
J. Gallo	1		1
D. Bavlin	1		1
Michael Rost	1		1
Donald Trump	1		1
Walter Deane	1		1

**Certified by:**

Audrey Coviello, Inspector



## YOGA

This course is designed to introduce students, safely and accessibly, to the basic postures, breathing techniques, and relaxation methods of yoga. Students will begin to experience the benefits of stretching, moving, and breathing freely as they relieve built up stress, learn to relax, and ultimately get more out of day to-day life. The aim of this course is to promote vibrant health and to tap the body's latent energy reserves.

## THEATRE ARTS

This course exposes students to the various elements of Theatre. Students will be introduced to the craft of acting through the performance of improvisation, pantomime and mime, monologues, scenes, and ensemble projects. The fundamental elements of staging a play (set design, lighting and sound, costuming, makeup, and the role of the director/producer) will be addressed. Lastly, students will gain an understanding of the history of theatre as well as the varieties of drama.

# **Tuxedo Union Free School District Special Education Plan 2019-2020**

Ms. Nancy Teed, Superintendent of Schools

Mr. Marc Matatia, Business Administrator

Mr. Jason Schrammel, K-12 Principal

Mrs. Traci Ferreira, K-12 Assistant Principal

Mrs. Alexis Kearsey, School Psychologist/504-CSE  
Chairperson

## PURPOSE

School districts have certain responsibilities in preparing special education district plans according to Section 200.2 (C) of the Regulations of the Commissioner of Education. The District Plan must include:

- I. A description of the nature and scope of special education programs and services currently available to school-age and preschool students residing in the District, including, but not limited to descriptions of the District's resource rooms and each special education class program provided by the District in terms of group size and composition.
- II. Identification of the number and age span of school-age and preschool students to be served by type of disability, and recommended setting.
- III. The method used to evaluate the extent to which the objectives of the program have been achieved.
- IV. A description of the policies and practices of the Board of Education to ensure the continual allocation of appropriate space within the District for special education programs that meet the needs of preschool and school-age students with disabilities.
- V. A description of the policies and practices of the Board of Education to ensure that appropriate space will be continually available to meet the needs of resident school-age and preschool students with disabilities who attend special education programs provided by Board of Cooperative Educational Services.
- VI. A description of how the District intends to ensure that all instructional materials to be used in the schools of the District will be made available in a usable alternative format for each student with a disability at the same time as such materials are available to nondisabled students.
- VII. The estimated budget to support such plan.
- VIII. The date on which such plan was adopted by the Board of Education.

## INTRODUCTION

The Individuals with Disabilities Education Act (IDEA), formerly known as the Education for All Handicapped Act (EHA), mandates that all children with disabilities receive a free, appropriate public education regardless of the level or severity of their disability. Since the passage of the original law in 1975, the Tuxedo Union Free School District has provided free and appropriate education in the least restrictive environment to students with disabilities, ages 3 to 21 years.

In 2004, legislation was signed to reauthorize the Individuals with Disabilities Education Improvement Act (IDEIA). The amendments to IDEIA, along with federal and state implementing regulations,

- shift the focus of the law from ensuring access to programs to ensuring the quality of the child's program;
- strengthen the connection between special education programs and services and the general education curriculum;
- emphasize the importance of having high expectations for students with disabilities and ensuring their access to the general education curriculum to the maximum extent possible;

- strengthen the role of parents in special education decision-making;
- mandate the provision of special education and related services in the regular education classroom whenever appropriate.

The New York State Board of Regents and the State Education Department, through the Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR), have established goals for educational programs and services for students with disabilities in New York. Among them are:

Students receiving special education services will meet high educational standards.

- Students with disabilities will be integrated with their non-disabled peers throughout their educational experience.
- Individuals with disabilities will participate successfully in postsecondary education.

These are the goals that serve as the basis for our work with students with disabilities. The District is committed to identifying students with disabilities and providing quality educational programs and services in the least restrictive environment to meet the academic, social and emotional needs of our students. This mission is accomplished through a strong collaborative relationship among staff, administrators, and parents.

The District is also committed to ensuring that students with disabilities meet high standards for academic performance and demonstrate adequate yearly progress as defined by NCLB.

This District Plan outlines the continuum of programs and services that are provided, and includes District policies, practices and procedures for assuring appropriate educational services to preschool and school-age students with disabilities. It is a working manual for staff and parents, and may undergo changes as laws, regulations and policies are modified. In compliance with the Regulations of the Commissioner of Education, it has been adopted at a regularly scheduled meeting of the Board of Education.

## PROGRAM OBJECTIVES FOR STUDENTS WITH DISABILITIES

The District is committed to the provision of an appropriate education for resident students with disabilities and has established the following special education program objectives:

- To establish a Committee on Preschool Special Education and a Committee on Special Education and appropriate Subcommittees on Special Education for the purpose of evaluating students suspected of having a disability and for placement of students with disabilities in appropriate programs.
- To provide a free appropriate education in the least restrictive environment for all District students with disabilities between the ages of three and twenty- one, or until the students have achieved a high school diploma, whichever shall occur first.
- To have high expectations for all preschool and school-age students with disabilities and to ensure that they have the opportunity to participate in all District programs, to the maximum extent appropriate considering the needs of all students in a proposed setting.
- To ensure that policies and procedures for establishing and operating special education programs are clearly defined and that the special education program is an integral part of the District's educational program.
- To provide the human and material resources necessary to implement a continuum of special education programs and services to meet the academic, social, physical and management needs of District students with disabilities.
- To support high quality professional development for all personnel who work with students with disabilities.
- To build close working relationships among all stakeholders in the special education community.
- To provide meaningful opportunities for parent participation the special education decision-making process.
- To provide, to the greatest extent appropriate, adaptation and modification of instructional materials and techniques, and collaborative models of instruction, to enable students with disabilities, as appropriate, to benefit from instruction within the general education setting, pass new State assessments, and meet diploma requirements.
- To ensure that procedures are in place for disciplining students with disabilities that promote and support responsible student behavior, protect the right of a student to a free appropriate public education, and promote collaboration and communication among school personnel and the Committee on Special Education.
- To ensure the confidentiality of personally identifiable data, information or records pertaining to a student with a disability. Such information will not be disclosed except in accordance with regulations.

## PRESCHOOL PROCEDURES, PROGRAMS AND SERVICES

### Committee on Preschool Special Education

At its yearly reorganization meeting in July, the Board of Education appoints a Committee on Preschool Special Education (CPSE). The membership of the Committee on Preschool Special Education shall include, but is not limited to:

- the student's parent;
- the regular education teacher of the student if the student is, or may be, participating in the regular education environment;
- at least one special education teacher or, if appropriate, at least one special education service provider of the child;
- the CPSE chairperson who is a representative of the District and is qualified to provide or supervise special education and who is knowledgeable about the general education curriculum and the availability of preschool special education programs and services and other resources of the District and municipality;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the regular or special education teacher, or school psychologist, or provider, or District representative described above;
- an additional parent of a preschool or elementary school age student with a disability who resides in the District, provided that the parent(s) of the child requests that the additional parent member participate;
- for a student in transition from early intervention programs and services, the appropriately professional from the Department of Health's Early Intervention Program;
- an appropriately licensed or certified professional from the municipality is invited but not required for a quorum;
- other persons having knowledge of special expertise regarding the child, including related services personnel as appropriate, as the School District or the parents shall designate. The determination of knowledge or special expertise of such person shall be made by the party who invited the individual to be a member of the CPSE.

**Preschool Student with a Disability** refers to a preschool student who has been identified by the CPSE who is eligible to receive preschool programs and services, and is not entitled to attend the public schools of the District. To be identified as having a disability, a preschool student shall either exhibit a significant delay, or disorder, in one or more functional areas related to cognitive, language and communicative, adaptive, social-emotional, or motor development which adversely affects the student's ability to learn. Such delay or disorder shall be documented by the results of the individual evaluation which includes, but is not limited to, information in all functional areas obtained from a structured observation of a student's performance and behavior, a parental interview, and other individually administered assessment procedures.

### Referral

The CPSE is responsible for arranging for evaluation of any student who is suspected of having a disability, who meets the age eligibility requirements specified in the Regulations, and is a resident of the School District.

The evaluation process begins when a written request for evaluation is made by either:

- the student's parent or person in parental relationship
- a designee of the School District in which the student resides, or the public school district the student legally attends or is eligible to attend

- the commissioner or designee of a public agency with responsibility for the education of the student
- a designee of an educational program affiliated with a child care institution with committee on special education responsibility pursuant to section 4002(3) of the Education law

The referral can be made at any time during the school year. If the referral is received by a professional staff person in the District, it shall be forwarded immediately to the CPSE Chairperson. It should specify the extent to which the preschool student has received any services prior to referral. When the CPSE receives a referral, the chairperson will write to the parent, describing the evaluation procedures and requesting parental consent for the evaluation. A list of County approved evaluation sites will be included. Translations will be provided as needed. In the event that consent is not provided, the Committee shall implement the District's practices for ensuring that the parents have received and understood the request for consent.

### **Evaluation and Recommendation**

The individual evaluation of a preschool child to be conducted by the approved evaluator selected by the parent shall include relevant functional and developmental information regarding the child's abilities and needs related to participation in age appropriate activities.

This evaluation will include the following, at no cost to the parent:

- a physical examination;
- an individual psychological examination,
- an observation in an environment appropriate for a child of less than school age
- a social history; 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, as necessary to ascertain the physical, mental and emotional factors which contribute to the suspected disabilities.

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and are administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory and to ensure that they measure the extent to which the student has a disability and needs special education, rather than measure the student's English language skills.

In addition, with the parent's consent, approved evaluators and the CPSE shall be provided with the most recent evaluation report from the child's Early Intervention Services for a child who is transitioning from such services.

The CPSE will arrange for specialized evaluations where necessary. These assessments may include, but are not limited to: bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time.

When completed, the evaluation reports will be submitted to the CPSE and a CPSE meeting will be scheduled within 60 days of the receipt of consent to evaluate, unless exceptions are present which extend such time to complete the initial evaluation. The parents will be provided with a copy of the evaluation and summary statement prior to the meeting. Upon request of the parent, the CPSE shall provide the parent with all written documentation to be considered by the CPSE. The results of the evaluation will be provided to the parent in



their dominant language or other mode of communication. Reasonable measures will be made to ensure the parent attends the meeting.

This means:

- A written notice is sent to the parent at least five days prior advising them of the meeting. Prior notice means written statements developed in accordance with section 200.5(a) of the Regulations of the Commissioner of Education, and provided to the parents of a student with a disability a reasonable time before the School District proposes to or refuses to initiate or change the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education to the student.
- If parent doesn't attend first scheduled time meeting must be rescheduled. Third scheduled meeting may be held in parents' absence.
- At least one additional attempt is made to notify the parents of the scheduled meeting. This may mean scheduling additional meeting times, written notices, and telephone calls to the parents to ensure their participation.

Prior to making any recommendation in an approved program of the agency that conducted the initial evaluation, the Committee may, at its discretion, obtain a second evaluation from another approved evaluator.

The CPSE submits a recommendation to the Board of Education and to the parent of the preschool student within 60 days of receipt of consent to evaluate. The Board of Education shall arrange for the preschool student with a disability to receive the recommended services commencing with the July, September or January start date of the approved program, unless such services are recommended by the CPSE less than 30 school days prior to, or after, such appropriate start date selected for such program, in which case such services shall be provided as soon as possible following the development of the IEP but no later than 30 school days from the recommendation of the CPSE and within 60 school days from receipt of the consent to evaluate. If the Committee determines the student is ineligible for special education, written notification is sent to the parent, indicating the reasons for the finding.

If the Committee determines that a student has a disability, an IEP (Individualized Education Program) is prepared which indicates the student's present levels of functioning including how the disability affects the student's participation in appropriate activities, measurable annual goals, including benchmarks or short term objectives, and the type of special education program and/or services recommended. This IEP must also indicate an explanation of the extent, if any, to which the student will not participate in appropriate activities with age-appropriate, non-disabled peers. The CPSE will seek, in every case, to recommend placement in the least restrictive environment consistent with the needs of the student. If, for any reason the recommendation of the Committee differs from the preference of the parent, the report shall include the reasons for the Committee's recommendations. The notices will also indicate that, in the event that the parent does not provide consent for provision of services, no further action will be taken by the CPSE until such consent is obtained.

## Programs and Services

The following is a listing of the preschool programs and services that are available to District students who have been identified as preschool students with disabilities. These programs and services are funded by the County but administered by the District Committee on Preschool Special Education. Early Childhood Settings are designed primarily for children without disabilities, and can include private preschool programs and child care facilities. Early Childhood Special Education Settings are settings designed primarily for children with disabilities. The number of preschool students being served in Early Childhood Settings is two students.

1. Early Childhood Setting: Related Services

Related services may include, but are not limited to, speech and language therapy, audiology, psychological services, interpreting services, physical therapy, occupational therapy, counseling services, medical services as provided by a qualified school nurse or other similarly qualified person in certain appropriate instances, parent counseling and training, school health services and/or social work services and assistive technology services. Services may be provided in a variety of settings, i.e., home, day care, nursery school or provider's office.

2. Early Childhood Setting: Special Education Itinerant Teacher

Special education itinerant teacher services are provided as indirect and/or direct instruction, by a certified special education teacher affiliated with an approved program. Services are given on an itinerant basis at a regular nursery school or the child's home. Direct services refer to specifically designated individualized or group instruction to assist preschoolers in benefiting from a regular nursery school program or in their home environment. Indirect services means consultation to early childhood teachers and parents to assist in making modifications in the environment and/or curriculum to meet the individual needs of preschoolers.

3. Early Childhood Setting: Special Class/Integrated Setting

The special class in the integrated setting is a class of no more than 12 preschoolers with disabilities who share the same physical space with a class of non-disabled preschoolers in a community nursery school. This class is a collaborative model staffed by an early childhood teacher, a special education teacher, and a teaching assistant.

4. Early Childhood Special Education Setting: Special Class

A special class in a State Education Department approved community or school setting that is designed primarily for children with disabilities. Classes typically range from six to twelve preschool students with disabilities. These classes are staffed by a special education teacher and one or two teaching assistants.

5. Home

Students can receive special education itinerant teacher and/or related services in the home of the family of the student.

**SCHOOL-AGE PROCEDURES, PROGRAMS AND SERVICES**  
**Committee on Special Education**

**Membership**

At its yearly reorganization meeting in July, the Board of Education appoints a Committee on Special Education (CSE) comprised of at least the following mandated members:

- the parents or persons in parental relationship to the student;
- not less than one regular education teacher of the student if the student is, or may be, participating in the general education environment;
- not less than one special education teacher or special education service provider of the student;
- a school psychologist;
- a representative of the District qualified to provide, or supervise the provision of special education and is knowledgeable about the general curriculum and about the availability of the resources of the school district, provided that the individual who meets these qualifications may be the same individual appointed as the special education teacher or the special education provider of the student or the school psychologist;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the general or special education teacher or special education provider or school psychologist or District representative described above or a person having knowledge or special expertise regarding the student when such member is determined by the School District to have the knowledge or expertise to fulfill this role on the committee;
- the school physician, if specifically requested in writing by the parent or by a member of the school at least 72 hours prior to the meeting;
- an additional parent, if requested, in writing, at least 72 hours prior to the CSE meeting by the parent, student or CSE member, who is a parent of a student with a disability residing in the School District or a neighboring school district, provided that such additional parent member may be the parent of a student who has been declassified or has graduated within a period not to exceed five years;
- other persons having knowledge or special expertise regarding the child, including related services personnel as appropriate, as the School District or the parents shall designate. The determination of knowledge or special expertise of that person shall be made by the party who invited the individual to be a member of the CSE;
- whenever appropriate, the student.
- If CSE is considering a student's placement at a school or facility outside the District, a representative of such school or facility.
- When CSE is considering a student's residential placement a representative of the appropriate state or county agency.

The Board of Education also appoints subcommittees of the Committee on Special Education. Subcommittees may perform all the functions of the Committee on Special Education except when the student is being considered for initial placement in a special class, initial placement in a special class outside the student's school of attendance, or initial placement in a school primarily serving students with disabilities, or a school outside of the student's district. Upon receipt of a written request from a parent, the subcommittee shall immediately refer to the Committee on Special Education for its review of any recommendation of the subcommittee that is not acceptable to the parent. Membership of each subcommittee shall include, but not be limited to:

- the parents of the student;
- the general education teacher of the student if the student is, or may be, participating in the regular education environment;
- not less than one special education teacher or, if appropriate, not less than one special education service provider of the student;
- the subcommittee chairperson who is a representative of the District and is qualified to provide, administer, or supervise special education and who is knowledgeable about the general curriculum and about the availability of the resources of the School District, who may also be the member attending as the special education teacher, the special education provider or the school psychologist;
- an individual who can interpret the instructional implications of evaluation results, who may be a member of the team selected from the regular, or special education teacher, or provider, or school psychologist, or person with special knowledge, or expertise, or District representative described above;
- such other persons having knowledge or special expertise regarding the student, including related service personnel as appropriate, as the committee or parent shall designate. The determination of knowledge or special expertise of that person shall be made by the party who invited the individual to be a member of the CSE;
- a school psychologist whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ratio is considered;
- the student, if appropriate;
- a representative of a private school, BOCES or educational facility when the CSE is considering an out-of-district placement.

A member of such committee or subcommittee is not required to attend a meeting, in whole or in part, if the parent and School District agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related service is not being modified or discussed at the meeting; and a member may be excused from attending a meeting, in whole or in part, when the meeting involves a modification to or discussion of the curriculum or related services if the parent and school district consent, in writing, to the excusal and the excused member submits to the parent and committee written input into the development of the IEP, and in particular written input with respect to their area of curriculum or related service prior to the meeting. Such excusal and the written input, where required, shall be provided not less than five days prior to the meeting date to allow the parent a reasonable time to review and consider the request; provided, however, a parent shall retain the right to request and/or agree to excuse a member at any time where a member is unable to attend because of an emergency or unavoidable scheduling conflict and the School District submits the written report for review and consideration by the parent within a reasonable time prior to the meeting and prior to obtaining the written consent of the parent for such excusal.

**School-age student with a disability** means a student with a disability who has not attained the age of twenty-one prior to September 1st and who is entitled to attend public schools pursuant to Section 3202 of New York Education law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who require special services and programs approved by the department. Such term does not include a student whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. In making a determination as to eligibility, a student shall not be determined to be a student with a disability if the

determinant factor is lack of instruction in reading or math or limited English proficiency. The thirteen disability categories are listed and defined in Section 200.1 (zz) of the Commissioners Regulations.

### **Referral**

The Committee on Special Education is responsible for evaluating all school aged students suspected of having a disability, identifying the disability (or determining that no disability exists), and recommending appropriate special education program and services. Referrals can be made at any time during the twelve-month year. Within 60 school days of consent for evaluation or referral for review, as applicable, the Board of Education will review the recommendations of the Committee on Special Education and arrange for appropriate special education services.

An initial referral for evaluation may be made by:

- the student's parent or person in parental relationship;
- a professional staff member of the public school district in which the student resides, or the public or private school the student legally attends
- a licensed physician or judicial officer;
- the commissioner, or designee, of a public agency with responsibility for the welfare, health or education of students;
- a designee of an educational program affiliated with a child care institution with committee on education responsibility pursuant to section 4002(3) of the Education Law.

A request for referral for an initial evaluation shall be made in writing to the school district and may be made by:

- A professional member of the school district in which the student resides, or the public or private school the student legally attends or is eligible to attend
- A licensed physician
- A judicial officer
- A professional staff member of a public agency with responsibility for welfare, health or education of children; or
- A student who is 18 years of age or older, or an emancipated minor, who is eligible to attend the public schools of the District.

If such written referral is submitted by persons other than the student or a judicial officer, it shall:

- State the reasons for the referral and include any test results, records or reports upon which the referral is based that are in the possession of the person making the referral;
- Describe, in writing, the intervention services, programs or instructional methodologies used to remediate the student's performance prior to the request for referral, including supplementary aids or support services provided for such purpose, or state the reasons why no such attempts were made;
- Describe the extent of parental contact or involvement prior to the request for referral.

Upon receipt of a request for referral that meets the above requirements, the school district shall, within 10 school days, either:

- Request parental consent to initiate the evaluation of the student, or
- Provide the parent with a copy of the request to refer for an initial evaluation and inform the parent of the right to refer for an initial evaluation and offer the parents an opportunity to meet, and discuss the request for referral and, as appropriate, the availability of appropriate regular education support services for the student, with the building administrator or other designee of the School District authorized to make a direct referral, and the party making the request for referral, if a professional member of the School District

All new entrants to the District are screened at the time of enrollment and such screening, if indicative of a disabling condition, will lead to a CSE referral. All referrals are made to the building principal or the Chairperson of the Committee. The referral must be written and dated.

Upon receipt of a referral, the Chairperson of the Committee on Special Education will contact the parent or guardian and request consent for evaluation. A copy of *A Parent's Guide to Special Education* and Due Process Rights are given to the parent at this time. Translations are provided to assist parents as needed.

Referrals may be withdrawn under the following circumstances:

The parent and the person submitting the referral agree to the withdrawal.

The building administrator, upon receipt of a referral or copy of a referral, may request a meeting with the parent or person in parental relationship to the student, and the student, if appropriate, to determine whether the student would benefit from additional general education support services as an alternative to special education, including the provision of educational support speech and language improvement, OT, or PT services, and academic intervention services and any other services designed to address the learning needs of the student and maintain a student's placement in regular education with the provision of appropriate educational and support services. If the person making the referral is a professional staff member of the School District in which the student resides, that person shall attend such meeting. The building administrator shall ensure that the parent understands the proceedings of the meeting and shall arrange for the presence of an interpreter, if necessary. Any other person making a referral shall have the opportunity to attend such meeting. If at the meeting the parent or person in parental relationship and the building administrator agree in writing that with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide a copy of the agreement to the Chairperson of the Committee on Special Education, the person who made the referral if a professional staff member of the school district and, the parent or person in parental relationship. Such agreement shall contain a description of the additional general education support services to be provided and the proposed duration of such program. A copy of the agreement shall also be placed in the student's cumulative education record file.

The meeting:

- shall be conducted within 10 school days of the building administrator's receipt of the referral;
- and
- shall not impede a Committee on Special Education from continuing its duties and functions under this Part.

*In the absence of a written agreement to withdraw the referral, as set forth above, if the parent does not provide written consent for an initial evaluation within 30 days of the receipt of the referral, the chairperson shall document attempts, including but not limited to telephone calls made and/or attempted and the results of such, and correspondence sent and any responses received by the chairperson or other representative of the committee to obtain parental consent, and shall notify the Board of Education that they may initiate an impartial due process hearing to permit the district to conduct an evaluation of the student without the consent of the parent.*

## **Consent**

Written consent of the parent, defined in Section 200.1(I) of the Regulations of the Commissioner of Education, is required:

Prior to conducting an initial evaluation or reevaluation, except that:

Parental consent is not required before reviewing existing data as part of an evaluation or a reevaluation or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

Parental consent need not be obtained for a reevaluation if the school district can demonstrate that it has made reasonable efforts to obtain that consent, and the student's parents failed to respond. The School District must have a record of its attempts to obtain parental consent

In the event the parent of the student to be evaluated does not grant consent for an initial evaluation, such parent shall be informed by the committee chairperson that, upon request, the parent will be given an opportunity to attend an informal conference with the committee or designated professionals most familiar with the proposed evaluation, the person who referred the student for such an evaluation, and counsel or an advisor of the parent's choice, at which time the parent shall be afforded an opportunity to ask questions regarding the proposed evaluation. If at this meeting the parent and the person initiating the referral agree in writing that the referral is not warranted, the referral shall be withdrawn. Except in the case of a preschool child, a student who is home instructed pursuant to Section 100.10 of the Commissioner's Regulations or a student placed in a private school by the parents at their own expense, if the parent does not request or attend such a conference, or continues to withhold consent for evaluation otherwise required for a period of 30 days after the date of receipt of a referral, the Board of Education may initiate an impartial hearing to be conducted in accordance with subdivision (i) of this section for the purpose of determining whether such an evaluation shall be conducted without parental consent.

Prior to the initial provision of special education to a student who has not previously been identified as having a disability:

Consent for initial evaluation may not be construed as consent for initial provision of special education services.

Prior to initial provision of special education services in a 12-month special service and/or program.

Prior to releasing any personally identifiable information as described in subdivision (3) of this section, in accordance with sections 200.2(b)(6) and 200.4(g) of this Part.

Prior to each time the School District proposes to access a parent's private insurance proceeds.

The parents must be informed that their refusal to permit the School District to access their private insurance does not relieve the School District of its responsibility to ensure that all required services are provided at no cost to the parents.

If the parents of a student with a disability refuse consent for an initial evaluation or reevaluation, the School District may continue to pursue those evaluations by using the due process procedures.

A school district may not use a parent's refusal to consent to one service or activity under paragraph (1) of this subdivision to deny the parent or child any other services, benefit or activity of the school district, except for the conditions under paragraph (1) of this subdivision for which consent is required.

If the parent refuses consent or fails to respond to the request to provide consent to the initial provision of special education programs and services, or at any time subsequent to providing consent, revokes consent, in writing, for the continued provision of special education programs and services, the School District shall not provide the special education programs or services to the student and shall not use the due process procedures to challenge the parents refusal or revocation of consent. However, the School District shall not be considered to be in violation of the requirement to make available a free appropriate public education because of the failure to provide special education programs and services for which the parent refuses or fails to provide consent; and the School District shall not be required to convene a meeting of the committee on special education or develop an IEP for the student. Where consent for special education services is revoked after provision of services to a student, the School District shall provide prior written notice before ceasing the provision of special education programs and services.

### **Evaluation and Recommendation**

1. Prior written notice that meets the requirements of Section 200.1(oo) of this Part must be given to the parents of a student with a disability a reasonable time before the school district proposes to, or refuses to initiate or change the identification, evaluation, educational placement of the student, or the provision of a free appropriate public education to the student.
2. If the notice relates to an action proposed by the School District that also requires parental consent under subdivision (b) of this section, the District must give notice at the same time it requests parent consent.
3. The notice must include:
  - a. a description of the action proposed or refused by the District;
  - b. an explanation of why the District proposes or refuses to take the action;
  - c. a description of any other options that the district considered and the reasons why those options were rejected;
  - d. a description of each evaluation procedure, test, record or report the District used as a basis for the proposed or refused action;
  - e. a description of any other factors that are relevant to the District's proposal or refusal;



- f. a statement that the parents of a student with a disability have protection under the procedural safeguards of this the Commissioner's Regulations and the means by which a copy of a description of the procedural safeguards can be obtained; and
  - g. sources for parents to contact to obtain assistance in understanding the provisions of this Part.
4. The notice must be written in language understandable to the general public and provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is not a written language, the School District shall take steps to ensure that the prior written notice is translated orally or by other means to the parent in his or her native language or other mode of communication; that the parent understands the content of the notice; and that there is written evidence that the requirements of this section have been met.
5. In addition to the requirements of paragraphs (3) and (4) of this section:
  - a. Upon receipt of a referral for initial evaluation or prior to conducting a reevaluation, such prior written notice shall include a description of the proposed evaluation or reevaluation and the uses to be made of the information and indicate that the parent may submit evaluation information which, if submitted, shall be considered by the committee on special education as part of its evaluation or review.
  - b. Upon a board of education's disagreement with the recommendation of the committee on special education pursuant to section 200.4(e)(2) of the Commissioner's Regulations, the notice to the parent and to the committee shall set forth in writing a statement of the Board of Education's reasons and indicate that the recommendation will be sent back to the committee, with notice of the need to schedule a timely meeting to review the Board's concerns and to revise the IEP as deemed appropriate.
  - c. Prior to the student's graduation with a local high school or Regents diploma, such notice must indicate that the student is not eligible to receive a free appropriate public education after graduation with the receipt of the local high school or Regents diploma.
  - d. Prior to a student's exit with a Skills and Achievement Commencement Credential or Career Development and Occupational Studies Commencement Credential, such prior written notice must indicate that the student continues to be eligible for a free appropriate public education until the end of the school year in which the student turns age 21 or until the receipt of a regular high school diploma.
  - e. Written Notice Upon Graduation or Aging Out For a student described in section 200.4(i)(1) notice must be provided to the parent and, beginning at age 18 to the student, in accordance with section 200.4 (i)(2) and (3).
  - f. For a student whom the committee on special education has determined to be at risk of a future residential placement, information must be provided to the parent on community

support services that may be available to the family, including the name and address of agencies which can perform an assessment of a family's community support needs, where such list has been made available to the committee.

- g. For students recommended for an approved private school, a copy of the approved private school's policy on the use of psychotropic medication must be provided to the student's parents if the school uses psychotropic medication.

### **Evaluation**

The initial evaluation will consist of procedures to determine whether a student is a student with a disability and to determine the educational needs of such a student. The evaluation will include a variety of assessment tools and strategies including information provided by the parent to gather relevant functional and developmental information about the student and information related to enabling the student to participate and progress in the general education curriculum. The individual evaluation will appropriately assess the student in all areas of suspected disabilities including at least the following, at no cost to the parent:

- a physical examination;
- an individual psychological examination, except when a school psychologist determines after an assessment of a school-age student that further evaluation is unnecessary. Whenever a psychologist determines that a psychological evaluation is unnecessary, the psychologist will prepare a written report of such assessment, including a statement of the reasons the evaluation is unnecessary, which will be reviewed by the Committee;
- an observation of the student in the current educational placement;
- a social history;
- other appropriate assessments or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to appropriately assess the student in all areas related to the suspected disability(ies).

The evaluator will use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. Tests will be administered in the student's native language or other mode of communication, unless it is clearly not feasible to do so. The tests will be validated for the specific purpose for which they are used and will be administered by trained personnel. Tests will be administered so as not to be racially or culturally discriminatory. The CSE will arrange for specialized evaluations where necessary, using appropriate resources outside of the district. These assessments may include, but are not limited to, bilingual evaluations, psychiatric and neurological examinations, audiological evaluations, visual evaluations, vocational evaluations and assistive technology assessments. Specialized evaluations are not limited to the initial evaluation process; they may be indicated at any time. The CSE shall maintain a list of appropriate resources and certified professionals for this purpose.

A variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parents, will be used in determining whether the student is a student with a disability and the content of the student's individualized education program, including information related to enabling the student to be involved in and progress in the general education curriculum. No single procedure is used as the sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for a student. The evaluation will be sufficiently

comprehensive in order to identify all of the student's special education needs, whether or not commonly linked to the disability category in which the student has been identified. Existing evaluation data on the student will be reviewed, including evaluations and information provided by the student's parents, current classroom-based assessments and observations, and teacher and related service providers' observations. Assessment tools and strategies are used to provide relevant information that directly assists persons in determining the educational needs of the student. Assessments of student with disabilities who transfer from one school district to another school district in the same academic year will be coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible to ensure prompt completion of full evaluations. The initial evaluation to determine if a student is a student with a disability will be completed within 60 days of receiving parental consent for the evaluation unless the student enrolls in the District after the evaluation timeline has begun in the student's previous school district, or the parent of the student repeatedly fails or refuses to produce the student for evaluation.

As a part of an initial evaluation, if appropriate, and as a part of any reevaluation, a group that includes the committee on special education, and other qualified professionals, as appropriate, shall review existing evaluation data on the student, including evaluations and information provided by the parent, current classroom-based assessments and observations, and observations by teachers and related service providers, to determine what additional data are needed by the committee on special education. The group may conduct its review without a meeting.

When an evaluation is completed, a CSE meeting is scheduled. Reasonable measures will be made to ensure the parent attends the meeting.

This means:

- A written notice is sent to the parent at least five days prior advising them of the meeting. Prior notice means written statements developed in accordance with Section 200.5(a) of the Commissioner's Regulations, and provided to the parents of a student with a disability a reasonable time before the school district proposes to or refuses to initiate or change the identification, evaluation or educational placement of the student or the provision of a free appropriate public education to the student.
- At least one additional attempt is made to notify the parents of the scheduled meeting. This may mean scheduling additional meeting times, written notices, and telephone calls to the parents to ensure their participation.

## **ELIGIBILITY DETERMINATION**

When the evaluations are complete, the CSE, including the parents and, if appropriate, the student, will meet to review the evaluation information to determine eligibility for special education, and if appropriate, develop an Individualized Education Program (IEP). The CSE will consider all evaluation information including evaluations provided by the parents. In making a determination of eligibility for special education, a student will not be identified as a child with a disability if the determinant factor is lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies, lack of instruction in math or limited English proficiency. In determining whether a student has a learning disability, the School District may use a process that determines if the student responds to scientific, research-based intervention as part of the evaluation procedures. Additional procedures for eligibility as a student with a learning disability shall comport

with the requirements set forth in 200.4(j), including specific documentation of eligibility. The district is not required to consider whether a student has a severe discrepancy between achievement and intellectual ability. A student with a disability will remain eligible to receive special education services even if the student is advancing from grade to grade.

The CSE will ensure that parents are provided with copies of the evaluation reports prior to, or at, the CSE meeting. Parents will be provided with documentation of determination of eligibility. The results of the evaluation will be provided to the parents in their native language or other mode of communication. Consensus is the preferred decision making process.

## **RECOMMENDATION**

The Committee on Special Education reviews the results of the evaluation to determine eligibility and submits a recommendation to the Board of Education. For a student not previously identified as having a disability, the Committee on Special Education shall provide a recommendation to the Board of Education which shall arrange for appropriate special education programs and services to be provided to the student with a disability within sixty school days of the receipt of consent to evaluate or within 60 days of the referral for review for a student with a disability, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the Board of Education shall arrange for such programs and services within 30 school days of the Board of Education receipt of such recommendation from the committee on special education.

If the Committee determines the student is ineligible for special education, written notification is sent to the parent/guardian, indicating the reasons for the finding. If a student is found ineligible to receive special education services, a copy of the recommendation and appropriate evaluation material shall be provided to the building administrator. The building administrator shall determine what support services, if appropriate, shall be provided to the student and, shall ensure the services are provided.

If the parent of a student refuses to consent or fails to respond to a request to provide such consent to the provision of special education programs and services, the School District shall not provide the special education program and services to the student and shall not use due process procedures to challenge the parent's refusal to consent.

### **Individualized Education Program**

If a student has been determined to be eligible for special education services, the Committee on Special Education or Preschool Committee on Special Education must develop an individualized education program (IEP). In developing the recommendations for the IEP, the Committee must consider the results of the initial or most recent evaluation; the student's strengths; the concerns of the parents for enhancing the education of their child, the academic, developmental and functional needs of the student, including, as appropriate, and other special considerations set forth on 200.4(d)(3), the results of the student's performance on any general, State or district- wide tests; and other factors unique to the student's disability. These recommendations shall include:

- the classification of disability pursuant to 200.1(mm) or (ZZ);
- the student's present levels of academic achievement and functional performance and individual needs in the following areas: academic or educational achievement and learning characteristics, social development, physical development and management needs including

how the disability affects student involvement and progress in the general curriculum;

- measurable annual goals, consistent with the student's needs and abilities, related to enabling the student to be involved in and progress in the general education curriculum and meeting each of the student's other educational needs that result from the student's disability. Each annual goal shall include evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal, and the IEP will identify when periodic reports on the progress the student is making will be provided to the student's parents;
- short-term instructional objectives and benchmarks for a student who takes the NYS alternative assessment and for each preschool student;
- special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel in order for the student to advance appropriately toward attaining annual goals, to be involved and progress in general curriculum, and to be educated and participate in activities with other students with and without disabilities; The recommended program and services shall, to the extent practicable, be based on peer-reviewed research;
- Class size;
- the extent to which a student's parents will receive parent counseling and training, when appropriate;
- the extent, if any, to which the student will not participate with typically developed students in the general education class and in other activities;
- if a student is not participating in a regular physical education program, the extent to which the student will participate in specially designed instruction in physical education including adapted physical education and for a preschool student, identify if the provision of IEP services will be in a setting with no regular contact with age-appropriate peers without disabilities or the extent, if any, to which the student will not participate in appropriate activities with age-appropriate non-disabled peers;
- any individual testing accommodations to be used consistently by the student in the administration of State or district-wide assessments of student achievement and in accordance with the State Education Department policy, that are needed in order for the student to participate;
- if the Committee determines that the student will not participate in a particular State or district wide assessment or part of such assessment, a statement of why the assessment is not appropriate and how the student will be assessed;
- the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications;

- how the student's progress towards the annual goals will be measured, how the student's parents will be regularly informed of their child's progress towards annual goals, and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year;
- the general education classes in which the student will receive consultant services;
- a description of assistive technology devices or services needed for the student to benefit from education;
- whether the student is eligible for twelve-month program or services to prevent substantial regression and, if so, the identity of the provider; and for preschool students, a statement of the reasons for such recommendation; and
- projected date of the review of the student's needs.

For those students beginning not later than the first IEP to be in effect when the student is age 15, and at a younger age, if determined appropriate, and updated annually, the IEP shall include:

- under the student's present levels of performance, a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities;
- appropriate measurable post-secondary goals based upon age appropriate transition assessments relating to training, education;
- a statement of the transition service needs of the student that focuses on the student's course of study, such participation in advanced placement courses or a vocational education program;
- needed activities to facilitate the student's movement from school to post-school activities including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
- a statement of the responsibilities of the School District and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

In developing the recommendations for the IEP, the CSE will consider the results of the initial or most recent evaluation, the student's strengths, the concerns of the parents, the results of the student's performance on any general State or district-wide tests, and other factors unique to the student's disability. The CSE will ensure that each student with a disability has an IEP in effect at the beginning of the school year and that an IEP is provided at no cost to the student's parent.

### Consideration of Special Factors:

In the case of a student whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive interventions, and supports to address that behavior that are consistent with the requirements in section 200.22 for program standards for behavioral interventions;

In the case of a student with limited English proficiency, consider the language needs of the student as such needs relate to the student's IEP;

In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the CSE determines after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or use of Braille is not appropriate for the student; and

Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.

Consider whether the student requires assistive technology devices and services, including whether the use of school-purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education.

Include a statement in the IEP if, in considering the special factors listed above, the Committee has determined a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education.

### Transfer Students:

**Transfer within New York State:** In the case of a student with a disability who had an IEP that was in effect in NYS and who transfers from a school district and enrolls in the Tuxedo Union Free School District within the same academic year, the District shall provide the student with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, until such time as the District adopts the previous IEP or develops, adopts and implements a new IEP.

**Transfer from outside New York State:** In the case of a student with a disability who transfers school districts within the same academic year, enrolls in the Tuxedo Union Free School District and had an IEP that was in effect in another state, the District shall provide the student with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, until such time as the District conducts an evaluation, if necessary, and develops a new IEP, if appropriate.

To facilitate the transition for a transfer student, the Tuxedo Union Free School District will take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education services to the student, from the previous school in which the student was enrolled.

## Annual Review

At least once a year, the Committee on Special Education conducts an individual review for each student identified with a disability receiving special education services. The purpose of the annual review is to review the status of each student with a disability to determine if the annual goals are being achieved and to recommend the continuation, modification, or termination of the provision of the special education program and services for the student. The Committee on Special Education reviews the student's IEP and other current information pertaining to the student's performance. Updated reports, educational evaluations, teacher summaries and report cards may be utilized to measure growth, assess progress and make recommendations. Team members, including administrators, special education staff, classroom teachers and parents meet with the Committee to discuss the academic, social and emotional progress of the child. If a revision of the student's IEP is recommended, it must address:

- any lack of expected progress toward the annual goals and in the general curriculum, if appropriate;
- the results of any reevaluation and any information about the student provided to, or by, the parent;
- the student's anticipated needs;
- any other matters, including the student's need for test accommodations and/or modifications.

Amendments to the IEP. Amendments to an IEP may be made after the annual review without the need for a CSE meeting when the parents and District mutually agree to do so following written notice to the parent and receipt of parental consent. A written document may amend or modify the student's current IEP, provided that the parents receive prior written notice of any changes to the IEP, and that the parents receive a copy of the document that amends or modifies the IEP or, upon request, is provided with a revised copy of the entire IEP with the amendments incorporated.

## Reevaluation

The Committee on Special Education must arrange for a comprehensive reevaluation of each student with a disability by a multi-disciplinary team at least every three (3) years, but not more than once a year unless the parent and a representative of the School District appointed to the CSE agree otherwise. The purpose of the reevaluation is to ensure that the student continues to qualify for and need special education services. The reevaluation shall be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education, and the student's continuing eligibility for special education. The student is reexamined by a multi-disciplinary team in the areas of management needs, academic, social/emotional and physical functioning. Both standardized and non-standardized measurements are utilized in order to clearly identify areas of strengths and weaknesses. Historical information is used together with new data from student, parents, teachers, evaluators and other staff to determine each student's individual needs as well as continuing eligibility for special education. The Committee on Special Education must address the results of any reevaluations in a meeting to review, and, as appropriate, revise the student's IEP. To the extent possible, the School District will encourage the consolidation of reevaluation meetings and other CSE meetings for the student.

Parental consent is obtained prior to conducting the reevaluation of a student with a disability. If the District takes reasonable measures to obtain consent and the student's parent fails to respond, reevaluation may take place without parental consent.

The Committee on Special Education may determine that no additional testing is necessary as a part of the reevaluation process. In this case, the Committee will notify the parent of the reasons for the determination, and



of the right of the parent to request an evaluation.

The School District will evaluate a student with a disability prior to declassification, but will not conduct a reevaluation of student before the termination of a student's eligibility due to graduation with a high school diploma or exceeding the age eligibility for special education services.

The District is required to provide a graduating or aging-out student with a summary of the student's academic achievement and functional performance, which will include recommendations on how to assist the student in meeting his or her post-secondary goals.

## **Additional IEP and Placement Considerations**

### **Provision of IEPs to Teachers and Other Service Providers**

In accordance with Chapter 408 of the Laws of 2002, amending Section 4402 of the New York Education Law, the District has implemented procedures to ensure that a copy of the IEP for each student with a disability is provided to each regular education and special education teacher, each related service provider, and to others who have a role in implementing the IEP. Procedures ensure that each person with a role in implementing the services described in the IEP has an opportunity to review the IEP and to discuss with the special education professional who is the case manager for the student the responsibilities associated with fulfilling IEP requirements. Procedures also ensure that the IEP remains a confidential document in compliance with Federal and State laws and regulations, including the Individuals with Disabilities Education Act (IDEA) and the Family Education Rights and Privacy Act (FERPA).

### **Implementation of School-wide Approaches and Pre-referral Interventions**

In accordance with the IDEA and Part 200 of the Commissioner's Regulations, the District has implemented a plan and policy to establish pre-referral interventions to remediate a student's educational progress before consideration of referral to the Committee on Special Education (CSE).

In keeping with this policy, it is the responsibility of the building level child study teams to investigate all possible avenues of educational support services that would enable the student to achieve the learning standards. These services may include, but are not limited to, functional behavioral assessments and behavior intervention plans, remedial and developmental reading, speech and language, OT, or PT improvement services, evaluations, individual and group counseling, consultation with staff and families, instructional strategies and methodologies building level educational support, Academic Intervention Services and ELL services. These services may be provided during the school day. They must be afforded to all students who do not meet the minimum designated standards on State assessments, and to Limited English Proficient (LEP) students who do not achieve the annual CR Part 154 performance standards. Consistent with the District AIS Description, supplemental instruction in English, Language Arts, Math, Social Studies, and Science as well as support services to deal with barriers to student progress such as attendance, discipline, health, family nutrition, and transient issues will be afforded to students who score within state mandated guidelines on elementary or intermediate State assessments or score below the State designated or local performance levels on any one of the State examinations required for graduation.

All school-wide approaches to provide remediation activities for students who are at risk of not meeting State standards or in danger of not meeting graduation requirements will be considered prior to making referrals to the CSE. These approaches may also include but are not limited to extra teachers or teacher aide support, student or volunteer tutorial assistance, counseling support, computer assisted programs. The principal shall notify each

student's parents whenever Academic Intervention Services (AIS) are provided and shall ensure that written quarterly progress reports are provided in the native language of the parents. These school-wide approaches shall serve as pre-referral interventions prior to consideration of special education programs through the Committee on Special Education (CSE).

The CSE referral form used by the District staff will describe in writing the intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aides or support services provided, or the reason why no such attempts have been made. The principal and/or building child study team shall maintain a record of pre-referral interventions implemented for each student. Each referral shall be reviewed to determine its appropriateness and whether pre-referral interventions have been adequately utilized, and if further interventions are deemed necessary.

If a CSE referral is received by the building administrator, it shall be forwarded to the CSE chairperson immediately upon its receipt by the administrator. If the referral is received by the CSE chairperson, a copy shall be forwarded to the building administrator within five school days of its receipt by the CSE chairperson. The building administrator, upon receipt of a referral or a copy of a referral, may request a meeting to be held within 10 school days of the receipt of the referral, with the parent or person in parental relationship, the student, and the referring person, to determine whether the student would benefit from additional general education support services as an alternative to special education. If the person making the referral is a professional staff member of the school building which the student attends, that person shall attend the meeting. The building administrator shall ensure that the parent understands the proceeding of the meeting and shall arrange for the presence of an interpreter, if necessary. Any other person making a referral shall have the opportunity to attend the meeting. At this meeting, if there is a written agreement that with the provision of additional general education support services the referral is unwarranted, the referral shall be deemed withdrawn and the building administrator shall provide a copy of this agreement to the Chairperson of CSE, the referring person, the parent or person in parental relationship, and the student, if appropriate. The copy of the agreement will be in the native language of the parent and will name the additional general education support services that will be provided as well as the length of time of each service. This agreement will be placed in the student's cumulative educational record file. If there is no written agreement reached at this meeting, the required timeline of the CSE will be maintained.

These pre-referral interventions will not be utilized as a barrier to prevent appropriate referrals for special education services but shall be used to assess the ability of the student to benefit from regular education services.

### **Least Restrictive Environment**

The District provides a wide continuum of services, ranging from placement in regular education classes with support and related services to residential settings. The District is committed to the policy of placing students in the least restrictive environment consistent with their needs. ***Least Restrictive Environment*** means that the placement of students with disabilities in special classes, separate schools or other removal from the general educational environment occurs only when the nature or severity of the disabilities such that even with the use of supplementary aids and services, education cannot be satisfactorily achieved.

Placement shall be based on the student's individualized education program and determined at least annually.

- Placement shall be as close as possible to the student's home, and unless the student's individualized education program requires some other arrangement, the student shall be educated in the school he or she would have attended if not disabled.
- In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the student or on the quality of services that he or she needs; and

- A student with a disability must not be removed from education in age- appropriate regular classrooms solely because of needed modifications in the general curriculum.

### **Procedures to Implement Least Restrictive Environment Requirements**

- The student will receive a comprehensive, nonbiased, individual evaluation in the student's dominant language or other mode of communication, unless it is clearly not feasible to do so, to determine his/her educational needs. In making a determination of a student's eligibility, the CSE shall not determine a student to be a student with a disability if the determination factor is lack of appropriate instruction in reading or math or limited English proficiency. The CSE must review evaluation information to determine whether any additions or modifications to special education services are needed to enable the student to participate, as appropriate, in the general curriculum.
- Prior to placement in special education, the CSE will ensure that the appropriateness of the resources of the general education program, including educational support services, has been considered.
- A student's educational program will be developed with the meaningful involvement of the student's parent or guardian and teacher and the student, when appropriate. The Committee will include persons knowledgeable about the student, the meaning of the evaluation data, and the continuum of placement options. IDEA requires that at least one of the student's general education teachers must be a member of the Committee (if the student is, or may be, participating in the general education environment). In addition, the representative of the school district qualified to provide or supervise special education must be knowledgeable about the general curriculum and the availability of resources of the School District. The individual knowledgeable about the evaluation data must be able to interpret the instructional implications of the evaluation results.
- The Committee on Special Education or Committee on Preschool Special Education will first consider placement in general education with appropriate support for the student and the student's teachers. The IEP must include statements of the student's present levels of educational performance, including how the student's disability affects involvement and progress in the general curriculum; or for preschool students, as appropriate, how the disability affects the student's participation in appropriate activities.
- Measurable annual goals, including benchmarks or short-term objectives, for students who are eligible to take alternate assessments, must be related to meeting the student's needs that result from the disability to enable the student to be involved in and progress in the general curriculum and meeting each of the student's other educational needs that result from the disability.
- Alternative placements, such as, special schools or other removal from the general education environment will be considered only when the CPSE/CSE determines that a student's education cannot be satisfactorily achieved even with the use of supplementary aids and services.
- The IEP of the student will include an explanation of the extent to which the student will not participate with students who do not have disabilities. The parent or guardian and the Board of Education will be provided a recommendation from the CPSE/CSE which describes the program and placement options considered for the student and a rationale for those options not selected.
- The CPSE/CSE must indicate clearly defined expected benefits to the student from the special education program selected in the areas of academic or educational achievement and learning characteristics, social development, physical development and management needs.
- The CPSE/CSE will conduct an annual review of the student's needs for continuation or modification of the provision of special education programs and services. Such review shall consider the educational progress of the student and the student's ability to participate in general education programs.

- The District is committed to the policy of placing students with disabilities in the least restrictive environment consistent with their needs. The District provides the full continuum of services as described in 200.6 of the Commissioner's Regulations.

**Provision Of Appropriate Special Education Services To Enable Involvement And Progress In The General Education Curriculum**

The Individuals with Disabilities Act (IDEA) presumes that all students with disabilities will be educated in general education classes to the maximum extent appropriate based on the unique needs of the student. The special education

and related services a student receives must support a student's successful participation in the general education curriculum and should not be considered as a separate service or program.

All students with disabilities who reside in the Tuxedo Union Free School District shall be provided with an appropriate individual educational program (IEP) that meets the student's unique educational needs as determined and recommended by the Committee on Special Education (CSE) and arranged for by the Board of Education. This IEP shall be designed to enable involvement and foster progress in general education to the extent appropriate to the needs of the student. In designing the IEP, the CSE will consider the present levels of performance and the expected learning outcomes of the student. The student's academic, social development, physical development, and management needs will be the basis for written annual goals and short-term objectives, as required.

In keeping with this policy, the CSE will consider participation in regular education classes at each initial, program or annual review for the student, as well as the appropriate support or related services needed for the student to make educational progress in the general education curriculum. Modifications and accommodations that facilitate participation in the general education program will also be considered. Progress or educational benefit shall be indicated by successful academic progress, including improvement in skills, achievement on State mandated examinations, ability to perform activities of daily living and an increase in adaptive behavior. Progress will also be considered in the social areas, including relationships with peers and adults, feelings about one's self, and the adjustment to school and community environments. Physical development areas such as the student's improvement in motor or sensory areas, health, vitality and physical skills and the decrease of management needs that require environmental modifications or human resources shall also be considered as progress.

The District will ensure equal access to a diploma for all students with disabilities through supported participation in general education classes and through special education classes that provide equivalent instruction designed to enable students to attain the State learning standards and pass State assessments. Appropriate Academic Intervention Services shall also be considered and determined by the building instructional support teams to assist students with disabilities in meeting academic goals. These services shall be in addition to the special education services deemed appropriate by the CSE. No student, by virtue of designation as a student with a disability, shall be precluded from receiving equivalent instruction unless the CSE has determined that the student requires a Skills and Achievement Commencement Credential program. If the student has the potential to achieve a regular High School diploma but requires a restrictive environment outside the District, the CSE will seek placement in a program that provides equivalent instruction designed to enable the student to attain the State learning standards and pass new State assessments.

The District will also ensure equal access for students with disabilities to after school activities such as clubs, sports, or evening activities and will provide, as recommended by the CSE, appropriate services to enable this participation. Students who are receiving education in out-of-district facilities, as recommended by the CSE,

shall also have an equal opportunity to participate in these activities, as deemed appropriate based on their individualized needs.

### Exemption From Foreign Language Requirement

Commissioner of Education Regulation 100.2(d) sets forth the typical requirement for credit compliance in the study of a foreign language other than English.

Students identified as having disabilities may be exempted from this requirement if their Individualized Education Program (IEP) indicates that such requirement is inappropriate. Only those students whose disabilities specifically and severely impair receptive and/or expressive language skills, or exhibit other behavioral or learning problems that would impact ability to benefit from foreign language instruction may be exempt from the foreign language requirements, as most students would benefit from exposure to a foreign language. The reasons for any exemption will be specified in the IEP. Therefore, at annual review for all students with disabilities who are completing seventh or eighth grade, the CSE will take the following steps:

- Student schedule and report cards will be reviewed to determine whether the language requirement has been completed.
- If the language requirement has not been completed, attention will be paid to speech and language levels, learning characteristics, and emotional factors which may be relevant to ability to benefit from language instruction in the following year.
- In determining whether or not exemption is appropriate, particular attention will be paid to severity of the speech and language impairment. Exemption may be granted if a student is severely speech and language impaired or if other factors justify such exemption. If the CSE concludes that exemption is warranted, reasons will be provided in a statement accompanying the IEP.
- Modifications and accommodations that facilitate participation in the foreign language program will be considered by the CSE at the time of the annual review.

The Tuxedo Union Free School District and State Education Department policies strongly support the study of foreign language by students with disabilities and the fulfillment of the language requirement by all students prior to completion of twelfth grade.

### **Extended School Year Services (CPSE/CSE)**

The Committee on Preschool Special Education (CPSE) or the Committee on Special Education (CSE) will determine whether a student requires a structured learning environment of up to 12 months to prevent substantial regression. **Substantial regression** as defined by Regulation, would be indicated by a student's inability to maintain developmental levels due to a loss of skill or knowledge during the months of July and August of such severity so as to require an inordinate period of review at the beginning of the school year to reestablish and maintain IEP goals and objectives mastered at the end of the previous school year. A special program or service shall operate for at least 30 days during the months of July and August. The decision about eligibility for extended school year services will be made at the time of the student's annual review, provided that this decision will be made in all instances prior to July 1 of the upcoming school year. In accordance with Section 200.60) and 200.16(h) of the Commissioner's Regulations, students will be considered for twelve-month special services and/or programs to prevent substantial regression if they are:

- preschool students/school age students whose management needs are determined to be highly

intensive and require a high degree of individualized attention and intervention and who are placed in special classes;

- preschool students/school age students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment;
- preschool students/school age students who are recommended for home and hospital instruction or students/preschool students whose special education needs are determined to be highly intensive and require a high degree of individualized attention and intervention or who have severe multiple disabilities and require primarily habilitation and treatment;
- preschool students/school age students whose needs are so severe that they can be met only in a seven-day residential program; or
- preschool students/school age students receiving other special education services who, because of their disabilities, exhibit the need for a twelve-month special service and/or program provided in a structured learning environment in order to prevent substantial regression.

Both quantitative and qualitative information will be reviewed by the Committee to substantiate the need for providing such services and programs. A student is eligible for a twelve-month service or program when the period of review or re-teaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or re-teaching ranges between 20 and 40 school days. As a guideline for the purpose of determining eligibility for an extended school year program, a review period of eight weeks or more would indicate that substantial regression has occurred.

### **Declassification of Students with Disabilities**

When a student who has been receiving special education services can participate in a regular education program without special education support, the student can be considered for declassification.

The recommendation to declassify students with disabilities is the responsibility of the Committee on Preschool Education (CPSE) and Committee on Special Education (CSE). As declassification constitutes a significant change of identification and placement, CPSE and the CSE shall reevaluate the child prior to making this recommendation. The CPSE and CSE shall also provide prior notice in the native language or other mode of communication of the home, to the child's parent or guardian, that a reevaluation is being sought for the purpose of considering declassification and request written consent for this evaluation. If the initial request for consent for reevaluation is unsuccessful, alternate measures will be taken to obtain consent and will be documented. If reasonable attempts have been made to obtain consent and have been documented but no response is received from the parent or guardian, the CPSE and CSE shall reevaluate the child without consent.

In order to determine the nature of this reevaluation, the school staff including members of the CPSE and CSE and other qualified professionals may review the existing evaluation data on the student including evaluations provided by the parents or guardians, current class assessments, observations by teachers, reports by related service providers and other professionals. This review shall not constitute a CPSE and a CSE meeting. On the basis of this review, the District may decide that no further data is needed. In this case, the CPSE and CSE shall notify the parents or guardians that further assessment has been deemed unnecessary and that they have a right to request further assessment to determine if their child continues to be a student with a disability. If the parent or guardian does not request further assessment, the CPSE and the CSE may meet to review the existing information and to consider declassification. A copy of this informal evaluation report shall be made available to the parent or guardian.

In conducting its review, the CPSE and the CSE will consider the student's ability to participate in instructional

programs in regular education, the student's ability to benefit from special education, and the student's continued eligibility to be identified as a child with a disability according to the criteria set forth in IDEA, the Part 200 Commissioner's Regulations and the District's existing policies and procedures. The CPSE and the CSE must also consider the provision of educational and support services to the student upon declassification. Upon declassification, the CPSE and CSE shall identify any declassification support services including the projected date of initiation of such services and the duration of these services. Declassification services shall be provided for no more than a year following the declassification date. Recommendations for declassification support services and appropriate evaluation information shall be forwarded to the building administrator who shall determine any additional educational support services, academic intervention services, or other services that may be appropriate for the child.

Even though a student may no longer require special education services, the student may require accommodations to enable the student's access to the programs of the District. In such instances, the student may be referred to the District's Section 504 team. In such instances, the effects of a disability may continue to prevent the student from demonstrating achievement of certain knowledge and skills. In such cases, a student who has been recommended for declassification may continue to need the testing modifications previously documented in an IEP. If this determination is made by the CSE and documented in the recommendation for declassification, the testing modifications must continue to be consistently provided to the student for the balance of his or her public school education. Alternatively, after the expiration of the student's declassification support services plan, the 504 team may, if appropriate, consider and recommend such testing modifications or other appropriate accommodations for a student who remains eligible for 504 accommodations.

For students with disabilities declassified while in grades 8-12, the CSE may also determine that the student will continue to be eligible for the provisions of the safety net for students with disabilities if recommended by the CSE and documented in the student's IEP.

Recommendations for declassification support services and appropriate evaluation information shall be forwarded to the building administrator who shall, in consultation with the child study team, determine eligibility for any other services that may be appropriate for the student.

## **SCHOOL CONDUCT AND DISCIPLINE**

### **Suspension of Students with Disabilities**

In the event that a student has a known disability or when school officials can be deemed to know, in accordance with law, that a student has a disability, the District will first proceed to conduct a Superintendent's hearing convened pursuant to Section 3214 of the Education Law for any suspension of more than five days. The Superintendent's hearing will be held in two parts: first to determine the student's guilt or innocence on the charges and the second to determine the penalty.

If guilt is determined on a violation of a provision of the District's Code of Conduct, before a penalty may be imposed, the following rules shall apply:

### **504/ADA Disability**

For a student solely with a disability under 504 of the Rehabilitation Act of 1973 (hereinafter referred to as "504")/Title II of the Americans with Disabilities Act (hereinafter referred to as the "ADA"), the 504 multi-disciplinary committee must make a determination regarding whether the conduct underlying the charges was a manifestation of the student's disability.

1. If a nexus is found between the disability and the conduct, no additional discipline shall be imposed and the record of discipline imposed to date shall be expunged.

2. If no nexus is found, yet nonetheless a disability is indicated or has been identified, discipline may be imposed upon remand to the Superintendent or her designated hearing officer. A change in placement; i.e. a suspension, removal or transfer, in excess of 10 school days must be preceded by notice and an evaluation conducted by the 504 team.
3. Students with a recognized 504/ADA disability who are currently using or in possession of alcohol or drugs may be disciplined, regardless of their disability status in the same manner and to the same extent as non-disabled students, provided that same students are currently engaged in the illegal use of drugs or use of alcohol.

## **IDEA Disability**

For students classified or presumed to have disabilities under the Individuals with Disabilities Education Act (IDEA) (a student with an educational disability), a Manifestation Team must make a Manifestation Determination prior to a student's suspension for ten (10) or more consecutive school days or prior to a suspension of ten (10) days or less, if it has been determined that a suspension for less than ten (10) consecutive school days would constitute a disciplinary change in placement.

A series of suspensions that are each ten (10) days or less in duration may create a pattern of exclusions that constitutes a disciplinary change in placement. That determination will be made on a case-by-case basis in accordance with applicable law and regulation. Among the factors considered in making this determination are: the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school.

A student shall be presumed to have a disability if prior to the time the behavior occurred:

1. The student's parent/guardian has expressed, in writing, to supervisory or administrative personnel of the school or to a teacher of the student that the student is in need of special education, provided that such notification may be oral if the parent does not know how to write or has a disability that prevents a written statement; or
2. The student's parent has requested an evaluation of the student; or
3. A teacher of the student or other personnel of the District has expressed specific concern about a pattern of behavior demonstrated by the student directly to the director of special education or to supervisory personnel.

A student shall not be presumed to have a disability for discipline purposes, despite satisfaction of one or more of the above criteria, if:

1. The student's parent has not allowed an evaluation of the student by the Committee on Special Education ("CSE");
2. The student's parent has refused special education services; or
3. It was determined by the CSE or Committee on Preschool Special Education ("CPSE") that the student is not a student with a disability.



## Manifestation Determinations

A Manifestation Team, which shall include a representative of the School District knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members or the Committee on Special Education as determined by the parent and the school district. The parent must receive written notification prior to any Manifestation Team meeting to ensure that the parent has an opportunity to attend and to inform the parent(s) of their right to have relevant members of the CSE participate at the parent's request.

1. When making a manifestation determination, the Manifestation Team shall review all relevant information in the student's file including the student's IEP, any teacher observations and any relevant information provided by the parents to determine if:
  - a. The conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
  - b. The conduct in question was a direct result of the school district's failure to implement the IEP

If either of the aforementioned criteria listed as "a" and "b" above are answered affirmatively, the conduct in question shall be deemed to be a manifestation of the student's disability.

When the Manifestation Team determines that the conduct in question was a manifestation of a student's disability, the CSE shall meet to recommend and conduct a functional behavioral assessment and implement a behavior intervention plan in accordance with Sections 201.3 and 201.4(d)(2)(a) of the Commissioner's Regulations.

A meeting for the sole purpose of making a manifestation determination does not require five (5) calendar days' notice to the student's parent/guardian. However, if the CSE meets to consider a change in placement in conjunction with the manifestation determination, the five-day notice requirement of Section 200.5(a)(3) of the Commissioner's Regulations is applicable and parental participation in all CSE meetings is expected and strongly encouraged.

## Discipline of Students with Disabilities When the Manifestation Team has made an Affirmative Manifestation Finding

When an educationally disabled student's conduct is a manifestation of the child's disabling condition, a student classified under IDEA may only be suspended from school for more than ten (10) consecutive school days, if one of the following applies:

1. The CSE recommends a change in placement on the student's individualized Education Plan (IEP) and/or Behavior Intervention Plan (BIP) and the parent/guardian or eighteen-year or older student consents to such change in writing following receipt of their Procedural Safeguards Notice.
2. A court order or order from an impartial hearing officer of suspension/removal of a dangerous student pursuant to Section 201.8 of the Commissioner's Regulations is obtained.
3. The violation involves weapons, drugs or serious bodily injury.

## **Suspensions for Misconduct Involving Weapons and/or Drugs and/or Serious Bodily Injury**

A student classified or deemed to be known as having an educational disability under IDEA may be suspended and placed in an Interim Alternative Educational Setting ("IAES") for up to forty-five (45) school days (less if the discipline for a non-disabled student would be less), if the student is found guilty of:

1) carrying or possessing a weapon while at school, on school property or at a school function;  
 2) knowingly possessing or using illegal drugs, or selling or soliciting the sale of a controlled substance while at school, on school premises or at a school function; or 3) inflicting a serious bodily injury to another person while at school or a school function.

1. The term "weapon" means "a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2-1/2 inches in length."
2. The term "illegal drugs" means controlled substances but not those legally possessed or used under the supervision of a licensed health care professional or other permitted authority under the Federal Controlled Substances Act or under any other provision of Federal law. Controlled substances are drugs and other substances identified under schedules set forth in applicable Federal law provisions.
3. The term "serious bodily injury" means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Before a student is suspended and placed in an IAES for up to forty five (45) school days for behavior involving weapons and/or drugs and/or serious bodily injury, the Manifestation Team must conduct a manifestation determination meeting. Placement in an IAES as a result of conduct involving weapons and/or drugs and/or serious bodily injury is not contingent upon a Manifestation Team determination that the misconduct is not related to the student's disability.

1. If the student is or may be placed in an IAES, the CSE shall, as appropriate, recommend functional behavioral assessment and behavior intervention, or review any such pre-existing, plan for modification; and
2. A CSE shall determine and recommend an IAES reasonably calculated to enable the child to continue to receive educational services, participate in the general curriculum and progress toward meeting IEP goals and objectives during the period of suspension from instruction.

## **Dangerous Students**

To continue the suspension of a student classified or deemed to be known as having an education disability under IDEA for more than ten (10) consecutive school days, the School District may commence an expedited hearing before a special education impartial hearing officer to demonstrate that a student is "dangerous" and is substantially likely to cause injury to him/herself or others if returned to his/her last agreed upon placement. An impartial hearing officer may order the placement of the student in an IAES for up to forty five (45) school days in accordance with Sections 201.8 and 201.11 of the Commissioner's Regulations.

1. The Manifestation Team must still conduct a manifestation determination within ten (10) consecutive school days of the initial disciplinary action.

2. If the student is, or may be placed, in an IAES, the CSE shall, as appropriate, recommend a functional behavioral assessment and a behavior intervention plan, or review any such pre-existing plan for modification; and
3. An impartial hearing officer's determination allowing a student's placement in an IAES as a result of dangerous behavior, is not contingent upon a Manifestation Team determination that the misconduct is not related to the student's disability.

### **Discipline of Students with Disabilities when the Manifestation Team has made a No Manifestation Finding**

Where a student with a disability's conduct is found not to be a manifestation of his/her disability; he/she may be disciplined in the same manner and to the same extent as non-disabled students. In such instances, the CSE shall meet upon proper notice to determine any appropriate evaluations which must be performed, changes to a student's IEP and to recommend an appropriate IAES where the child can continue to receive educational services, although in another setting, that enable the child to participate in the general curriculum and progress toward meeting IEP goals and objectives during the period of suspension from instruction.

### **Pendency Placement**

An IAES shall be deemed the student's "stay put" placement for up to forty-five (45) school days, during the pendency of any expedited due process proceedings commenced by parents to contest 1) a finding that a student is not "presumed to have a disability", and/or 2) a finding that the student's misconduct was not a manifestation of the student's disability, and/or 3) a decision to place a student in a CSE recommended IAES for misconduct involving weapons and/or drugs and/or serious bodily injury, and/or 4) the decision of an impartial hearing officer in a dangerousness hearing and/or 5) the appropriateness of an IAES program recommended by the CSE in the context of one of the four categories of action listed above.

### **District School-Age Programs and Services**

The following is a listing of the District school-age programs and services that are currently available to meet the academic, social, physical and management needs of students with disabilities.

#### **A. General Education with Supplementary Aids and Services**

Supplementary aids and services can be provided to a student with a disability who is educated in a regular class setting and does not receive additional special education services. Aids and services may include, but are not limited to, academic intervention services, assistive technology, educational support services, classroom modifications and accommodations, and additional support from a teacher aide or teaching assistant.

#### **B. Transitional Support**

Transitional support means temporary or short-term services that are provided to a student, or to the student's regular or special education teacher, to facilitate a transfer to a regular education setting prior to declassification, or to a less restrictive setting. Alternate day support services, or monitoring of student progress in the regular education setting are examples of transitional support services.

**C. Related Services**

Related services are support services, which assist students with disabilities in benefiting from instruction in either a regular or special class program. These services may include, but are not limited to, speech therapy, occupational therapy, physical therapy, counseling and adapted physical education, and are provided individually or in small groups. Related services are available in all District school buildings.

**D. Consultant Teacher**

Consultant teacher or collaborative services are direct or indirect services provided, at least two hours weekly, to the student or the student's teacher(s) in order to support their participation in a regular education program. Direct consultant teacher service is delivered through individual and/or group instruction by a special education teacher in a regular education classroom. Indirect consultant teacher service involves consultation provided to a classroom teacher by a special education teacher in order to assist them in adjusting the learning environment and/or modifying their instructional methods to meet the needs of a disabled student in a regular education setting. Consultant teacher services are available at both the elementary and secondary levels.

**E. Resource Room**

Resource room services support the placement of students with disabilities in regular education settings. A special education teacher, usually through a "pull-out" model, delivers these services. Students receive specialized instruction in the resource room for a minimum of three hours weekly or a maximum of 50 percent of their school day. The group size for resource room is limited to five students per period. Resource room services are available in each of the elementary schools as well as the middle school and high school.

**F. Integrated Co-Teaching Services**

The school district offers integrated co-teaching services in its continuum of services for students with disabilities. This consists of the provision of specially designed instruction and academic instruction provide to a group of students with disabilities and nondisabled students. The maximum number of students with disabilities in such classes shall not exceed 12 students. School personnel assigned to each class shall minimally include a special education teacher and a general education teacher.

**G. Special Education Class**

Students are recommended for a special class program when, because of the nature of their skill deficits or severity of their disability, their educational goals cannot be satisfactorily achieved in a regular class setting with additional special education support services (resource room, consultant teacher). Students in special education classes receive specialized instruction in skill areas identified in the student's IEP (usually reading, math, and language arts) in the special class setting. They can also participate in regular education classes with grade level peers for a portion of the day with the support of a special education teacher or teaching assistant. Elementary special class programs vary in enrollment but do not exceed fifteen students to one teacher, except by variance from the commissioner. In grades 5-8, students can spend up to six periods daily in the special class program, but participate in regular education classes as appropriate based on their needs. Students can participate in primary instruction classes for language arts, math, science and social studies, based on an individual's academic need. Secondary special class programs vary in enrollment but do not exceed fifteen students to one teacher, except by variance from the commissioner. At the middle school and high school level, special classes are available by subject area: language arts, math, science, social studies and in skills and support. All special education classes are composed of students with a chronological age span of up to three years and similar academic, social, emotional, and management needs. Students in special

education classes participate in all specials and electives.

## **Other Public/Approved Private School Programs**

### **A. Other Public School Programs:**

Special education programs in other public school districts are considered for District students with disabilities when an appropriate in-district program is not available.

### **B. BOCES: Board of Cooperative Educational Services**

The Tuxedo Union Free School District is a component school district of Orange-Ulster BOCES. The District also utilizes Rockland BOCES and Southern Westchester BOCES programs. BOCES is a regional public education collaborative which functions in New York State as an extension of local school districts and offers services for students with more intensive educational, emotional or management needs that cannot be appropriately met in an in-district program. The District currently has students with disabilities in the following BOCES special education programs:

#### **1. Jesse Kaplan School**

This program focuses on communication, social behavior and academics. Small group instruction occurs daily and concentrates on increasing language. Literacy skills are addressed through the incorporation of Direct Instruction reading programs. A rich visually supported environment ensures maximum independence for each student. Technology is designed for individual students, including alternative and augmentative communication devices.

#### **2. Miller Elementary School**

This program serves students with developmental, behavioral and language-based delays in grades K-2. A strong language-based integrated curriculum addresses language and literacy development. Students are provided opportunities for mainstreaming.

#### **3. Cherry Lane Elementary School**

This program serves students grades K-5 with autism and developmental disabilities. A combination of TEACCH® (Treatment and Education of Autistic and Communication related handicapped CHildren) and ABA (Applied Behavior Analysis) methodologies with multi-sensory instruction for K-5 is provided.

#### **4. Link Elementary School**

Two classes serve children with autism, multiple or severe disabilities, grades K-5, with integrative opportunities. Structured teaching, multi-sensory instruction with integrated therapies and family services are provided.

#### **5. Lincoln Avenue Elementary School**

Lincoln Avenue Elementary School (2 classes) Pearl River Union Free School District. This program serves students K-4 with multi-sensory approach, social communication instruction and integrative opportunities.

#### **6. South Orangetown Middle School**

This program, for students with developmental disabilities, grades 6-8, provides instruction in functional

academics, including a tiered literacy program. Integrative opportunities are offered.

## 7. Pearl River Middle School

### **PAVE – Practical Academics Vocational Education**

This program serves students with impaired cognitive ability, grades 5-7. Structured teaching, multi-sensory instruction, social communication instruction with integrated therapies, are provided. Students are integrated into the school community through a variety of social activities.

## 8. Tappan Zee High School

### **COVE - Consortium of Occupation & Vocational Education**

This program is a collaborative program shared with the South Orangetown Central School District and serves high school students with developmental disabilities. This program offers practical academics, life skills and a community-based vocational curriculum with an emphasis on job skill development, adult services linkages and family support. An apartment set up affords the opportunity for the practice of critical self-care skills. Students are also afforded regular social skills programming by a trained clinician.

## 9. Suffern High School

The program serves students in grades 9-12 who have learning, social and/or emotional challenges and benefit from a structured academic and behaviorally supportive environment. Students have the opportunity to take all core classes within a small class setting and be mainstreamed while support services and enriched curricula remain in place. There is clinical support with the integration of Dialectical Behavioral Therapy (DBT) including mindfulness, distress toleration, emotion regulation and interpersonal effectiveness skills groups.

## 10. River View High School

This program offers intensive therapeutic support in an educational setting. High academic standards coupled with flexibility, commitment and caring are hallmarks of the program. An evidence-based intervention, Dialectical Behavior Therapy (DBT) is used to empower students in the areas of self-esteem, emotional regulation and coping skills. A comprehensive Positive Behavior Intervention Support (PBIS) program helps students to self-regulate their emotions and behaviors.

## 11. Project SEARCH

Project SEARCH is a unique, business-led transition program designed for students with developmental disabilities. It is targeted for students in their final year of school. Students should be at least 18 years of age, have completed any high school credits necessary for graduation, meet eligibility requirements for the Office for People With Developmental Disabilities (OPWDD) and/or Adult Career and Continuing Education Services. Vocational Rehabilitation (ACCES-VR) and have employment as their main goal. Total immersion in the workplace facilitates the teaching and learning process, as well as the acquisition of employability and marketable work skills necessary for entry-level employment in various facilities. The cornerstone of the one school-year program is immersion into Good Samaritan Hospital where students will explore a variety of work sites. Individualized job development and placement occurs based on the student's experiences, strengths and skills. Students are given support with accommodations, adaptations and on-the-job coaching.

## 12. STRIVE

The STRIVE Program (Structured Teaching Reinforced In a Visual Environment) is a center-based program designed for students with Asperger's, Autism and PDD. Students range in age from 5 to 21 and are provided services in a 6:1+2 classroom ratio. The basic format for classrooms is modeled after

the TEACCH program in North Carolina. Students are provided with a highly structured setting through the use of individual daily schedules, structured 1:1 teaching and the utilization of an independent work area. In addition, the incorporation of visual strategies assists in building skills in the areas of communication and language, social skills, academics, sensory integration and generalization into the community setting. Support services are provided in accordance with the IEP both in the classroom and in a separate location in the school building.

**C. Approved Private Day and Residential Schools:**

When the needs of a student with a disability cannot be met in program operated by the District, another public school district, or a BOCES program, the District may, with the approval of the NYS Education Department, utilize approved private day or residential placements. These schools provide highly individualized programs with intense supervision and structure. The Tuxedo Union Free School District is not currently utilizing approved private day and/or residential schools.

**D. Home/Hospital Instruction:**

Students with disabilities who are unable to attend school due to medical conditions (physical or psychiatric) receive their educational program at home or in a hospital setting. Elementary students receive five hours of services a week while students at the secondary level receive ten hours weekly.

## **EVALUATION OF PROGRAM OBJECTIVES**

In evaluating the extent to which program objectives have been achieved, the Department of Pupil Personnel Services will review performance data and information, from a variety of sources, regarding the provision of special education programs and services to District students with disabilities. Among the information to be analyzed are the following:

- Special education data reports (PO 1/4, PO 5, PO 6, PO 8)
- Performance of students with disabilities on State assessments
- Percentage of students with disabilities earning high school diplomas
- School Report Card
- Performance data from annual reviews and reevaluations
- Progress toward mastery of IEP goals and objectives
- Reports and comments from stakeholders

## **SPACE ALLOCATION**

**A. District Facilities**

As part of the Rehabilitation Act of 1973 (PL 93-112), Congress enacted

Section 504 which provides that "no otherwise qualified disabled individual ... shall be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The regulations pertaining to Section 504 also require that school districts place students with disabilities in educational environments with students who do not have disabilities, unless it can be demonstrated that despite the use of supplementary aids and services, integration of the student with disabilities into the regular school environment cannot be satisfactorily achieved. This mandate was later addressed as the concept of "least restrictive environment" in the Education of All Handicapped Children Act of 1975 (PL 94-142). As a result, it became obligatory for school districts to make their facilities accessible to students with disabilities who are otherwise qualified and able to participate in the programs of the school.

Subpart C of PL 93-112 sets forth the central requirement of the regulations governing program accessibility. All new facilities must be constructed to be readily accessible and usable by persons with disabilities. Every existing facility need not be entirely barrier free, but all recipients must ensure that programs conducted in those facilities are made accessible.

Subpart D of PL 93-112 is concerned with elementary and secondary education. Its provisions are coordinated with those of PL 94-142. The regulations of both Acts require that the recipients, i.e. school districts, operating public education programs provide a free appropriate education to each qualified child in the most normal setting appropriate.

It is the policy and practice of the Board of Education of the Tuxedo Union Free School District to ensure, to the fullest degree possible, that students with disabilities residing within the District are educated within the School District in the least restrictive environment. Each year, the location of special education classes within the District is assessed to ensure that special education programs are provided in school buildings appropriate to student needs. In addition, the population of students with disabilities in out-of-district programs is reviewed annually to determine if the needs of students in out-of-district programs could be addressed in District programs.

All administrative staff has participated in the development of recommendations for present and future space needs at the district and building level. Both district level and building level representatives participated in space planning to determine the appropriateness of locations to services students with disabilities.

Special education programs shall not be denied or discontinued because of the need for appropriate space, and future construction will address special education needs.

## **B. Board of Cooperative Educational Services**

To the fullest extent possible, appropriate space is also available to meet the needs of disabled students who attend special education programs provided by the Board of Cooperative Educational Services.

A major goal of the regional BOCES is to distribute its classes in a manner so as to reduce student travel time and district transportation requirements.

### **Alternative Format Procedures**

In accordance with Chapter 377 of the Laws of 2001 and amendments to Section 200.2 of the Regulations of the Commissioner, the District has implemented procedures to ensure that every student with a disability who needs his or her instructional materials available in an alternative format will receive



those materials at the same time that they are available to non-disabled students.

- Alternative format is defined to mean any medium or format for presentation of instructional or assessment materials, other than traditional print materials, that are needed as an accommodation for a student with a disability enrolled in the school district. It would include, but not be limited to, Braille, large print, open and closed caption, audio, or an electronic file.
- The need for alternative format materials will be determined by the Committee on Special Education and specified in the student's IEP or by the Section 504 Team and specified in the student's Accommodation Plan.
- The CSE or the Section 504 Team will identify a case manager who will be responsible for obtaining alternative format materials, including State assessments.
- Materials in alternative formats will be ordered or produced with sufficient lead-time to ensure that they will be available at the same time as regular format materials are provided to other students.
- The District will give preference in the purchase of instructional materials to those vendors who agree to provide such materials in alternative formats.

### BUDGET

The following table is a summary of special education program costs for district accounts. The Supplies category includes expenditures for textbooks, workbooks and general supplies for each of the buildings and for district accounts. School management expenditures are not included.

ACCOUNT TITLE		
SALARIES & BENEFITS		
EQUIPMENT	2,500	
CONTRACT SERVICES	152,500	
BOCES PROGRAMS AND SERVICES	8,700,000	
TUITION: OTHER PUBLIC	300,000	

TUITION: APPROVED PRIVATE	775,000	
MILEAGE	5,000	
STAFF CONFERENCES	2,000	
SUPPLIES	47,500	
CERTIFIED HOURLY		

**BOARD OF EDUCATION ADOPTION**

**The Tuxedo Union Free School District Special Education Plan was adopted by the Board of Education on**

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Date

President, Board of Education