

Students

**MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT****SUBJECT: GUIDELINES FOR REFERRAL TO COMMITTEE ON SPECIAL EDUCATION (CSE)**

- 1) The District must initiate a referral and promptly request parental consent to evaluate a student who has not made adequate progress after an appropriate period of time in the response to intervention process.
- 2) In addition, referrals and requests for referrals may be made as follows:
  - a. A referral for initial evaluation is made in writing to the Chairperson of the CSE or the building administrator of the school the student attends or is eligible to attend by:
    - (1) A parent as defined in Commissioner's Regulations Section 200.1(ii);
    - (2) A designee of the school district in which the student resides;
    - (3) A designee of the public school district the student legally attends or is eligible to attend;
    - (4) The commissioner or designee of a public agency with responsibility for the education of the student; and/or
    - (5) A designee of an education program affiliated with a child care institution with committee on special education responsibility pursuant to Section 4002(3) of the Education Law.
  - b. A written request for referral of a student for an initial evaluation is made in writing to the school where the student resides or legally attends or is eligible to attend. Such request shall be immediately forwarded to the committee chairperson. The written request for referral may be made by:
    - (1) A professional staff member of the school district in which the student resides;
    - (2) A professional staff member of the public or private school the student legally attends or is eligible to attend;
    - (3) A licensed physician;
    - (4) A judicial officer;

(Continued)

## Students

**SUBJECT: GUIDELINES FOR REFERRAL TO COMMITTEE ON SPECIAL EDUCATION (CSE) (Cont'd.)**

- (5) A professional staff member of a public agency with responsibility for welfare, health or education of children; or
  - (6) A student who is eighteen years of age or older or an emancipated minor who is eligible to attend the public schools of the District.
- 3) The CSE Chairperson notifies building administrator of referral and sends parent/person in parental relation written notice that evaluative information is being sought. Such advice shall include a description of the proposed evaluation, and information regarding all applicable due process rights. The notice shall also include a request for written parental consent to the proposed evaluation of a student not previously identified as having a disability.  
  
Parental consent for initial evaluation must be received within thirty (30) calendar days of receipt of referral. If consent is not received, the Committee Chairperson will document all attempts at obtaining the consent, and, if appropriate, advise the Board of its rights to utilize due process proceedings to conduct an evaluation without parental consent.
- 4) A Comprehensive Evaluation consists of at least:
  - a. Individual Psychological;
  - b. Physical Examination;
  - c. Social History;
  - d. Observation in the student's learning environment (including the regular classroom setting) or an environment appropriate for the student's age; and
  - e. Other appropriate assessments or evaluations, including a functional behavioral assessment (FBA) for a student whose behavior impedes his/her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disability.
- 5) The District shall ensure that assessments and other evaluation materials used to assess the student:

(Continued)

## Students

**SUBJECT: GUIDELINES FOR REFERRAL TO COMMITTEE ON SPECIAL EDUCATION (CSE) (Cont'd.)**

- a. Unless it is clearly not feasible, are provided and administered in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally;
  - b. Are used for purposes for which the assessments or measures are valid and reliable;
  - c. Are administered by trained and knowledgeable personnel in accordance with instruction provided by the developers of the assessments; and
  - d. Are selected and administered so as not to be discriminatory on a racial or cultural basis.
- 6) For students who transfer from one school district to another in the same school year, assessments will be coordinated as expeditiously as possible with the student's prior and subsequent schools to ensure prompt completion of full evaluations.
  - 7) When evaluations are complete, the CSE which includes the student's parent/guardian and, where appropriate the student, meets to determine if the student is eligible or ineligible for Special Education and to develop a recommendation.
  - 8) If the student has been determined to be eligible for special education services.
    - a. CSE develops, in conjunction with the child's parent/guardian and student (if appropriate) the Individualized Education Program (IEP) which may include a behavioral intervention plan. This becomes the student's program.
    - b. Parent/guardian consents in writing to placement (of a student who has not previously been identified as having a disability).
  - 9) Board of Education notifies the parent/guardian of its review of the CSE recommendation and arranges for appropriate special programs and services.
  - 10) The CSE shall arrange for an appropriate re-evaluation of each student with a disability:
    - a. If the District determines that the educational or related services needs, including improved academic achievement and functional performance of the student, warrant re-evaluation;
    - b. If the student's parent or teacher request a re-evaluation;

(Continued)

## Students

**SUBJECT: GUIDELINES FOR REFERRAL TO COMMITTEE ON SPECIAL EDUCATION (CSE) (Cont'd.)**

- c. At least once every three (3) years, unless the District and the parent/person in parental relation agree in writing that such re-evaluation is unnecessary. A re-evaluation shall not be conducted more frequently than once a year unless the parent and District CSE representative agree.
- 11) The CSE may amend or rewrite the student's IEP after the annual review provided that:
- a. The parents/persons in parental relation request an amendment and the District agrees to such amendment in writing; or
  - b. The District provides the parents/persons in parental relation a written proposal to amend the IEP conveyed in understandable language (i.e., in their native language or other dominate mode of communication) and allowing them the opportunity to consult with appropriate school personnel or related service providers prior to an agreement to accept such amendments; or
  - c. The parents/persons in parental relation, having been provided prior written notice (notice of recommendation) of the changes, agree to the amendments without a meeting.

**Education Decisions by Noncustodial Parents**

In New York State, a noncustodial parent does not have the right to control educational decisions for his/her child. However, a noncustodial parent is afforded this right if, and only if, this right is expressly included in a custody order.

Additionally, absent supporting language in a custody order, a noncustodial parent lacks standing under IDEA to bring a claim to assert control over his/her child's educational program. Until recent revisions to New York law, consent for an initial evaluation, reevaluation, or the provision of special education services needed to be provided by a parent (i.e., the custodial or noncustodial parent). As it now stands, the decision to provide consent for a CSE-related activity is considered an education-related decision designated exclusively to custodial parents unless a court order specifically states the contrary.